

EXHIBIT 3

UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF WYOMING

STEPHANIE WADSWORTH,)
Individually and as Parent)
and Legal Guardian of W.W,)
K.W., G.W., and L.W., minor)
children, and MATTHEW)
WADSWORTH)

Plaintiffs,)

vs.)

WALMART, INC., and JETSON)
ELECTRIC BIKES, LLC,)

Defendants.)

No. 2:23-cv-00118-NDF

DEPOSITION OF MICHAEL J. SCHULZ

Tuesday, September 10, 2024

Roseville, California

REPORTED BY: Joy E. Shure, CSR No. 3659

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Plaintiffs,

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WALMART, INC., and JETSON
ELECTRIC BIKES, LLC,

Defendants.

No. 2:23-cv-00118-NDF

Deposition of MICHAEL J. SCHULZ, an Expert
Witness, taken on behalf of Defendant JETSON ELECTRIC
BIKES, LLC, at 915 Highland Pointe Drive, Suite 250,
Roseville, California 95678, commencing at the hour
of 9:22 a.m., Tuesday, September 10, 2024, before
Joy E. Shure, CSR No. 3659, pursuant to Notice of Taking
Deposition.

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2

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1 I N D E X

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EXHIBITS FOR IDENTIFICATION

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1 TUESDAY, SEPTEMBER 10, 2024, ROSEVILLE, CALIFORNIA

2 9:22 A.M.

3 * * *

4

5 MICHAEL J. SCHULZ,

6 the witness herein, having been first duly sworn, was
7 examined and testified as follows:

8

9 EXAMINATION+

10 BY MR. LaFLAMME:

11 Q. Mr. Schulz, my name is Eugene LaFlamme.

12 Obviously, we know each other from past fires. Good to
13 see you again.

14 I know you've had your deposition taken a
15 number of times; so I will not go through the typical --
16 all of the typical instructions.

17 The only ones I want to get out are, obviously,
18 we're here to figure out what your opinions are in this
19 case.

20 If at any point in time you don't understand my
21 question or don't hear it, let me know; I'll rephrase it
22 or restate it to a point where we're communicating.

23 Understood?

24 A. Understood. I won't be shy in that regard.

25 Q. I know you won't.

1 And if you have answered a question as worded,
2 I would presume you're giving your honest and truthful
3 answer to that question.

4 Is that fair?

5 A. That's fair.

6 Q. All right. Would you please state your full
7 name for the record.

8 A. Michael J. Schulz. Schulz is S-c-h-u-l-z.

9 Q. Where are you employed?

10 A. M.J. Schulz & Associates, Inc.

11 Q. How many employees does that company have now?

12 A. Currently, two.

13 Q. You and your wife?

14 A. Yes.

15 Q. I know your fee schedule lists technicians or
16 consultants. How does that come into play?

17 A. I have contract people that I use to assist me
18 at times.

19 Q. So you 1099 those types of people when you need
20 them?

21 A. Yes.

22 Q. When was the last time you've had any other
23 employees besides yourself and your wife?

24 A. 10 years ago probably.

25 Q. As I understand it, you are -- you do the code

1 work, origin and cause work, and your wife does more of
2 the admin business operations side?

3 A. And she really doesn't do that.

4 Q. Okay.

5 A. She does litigation support services and she
6 had her own company which ran into difficulties with the
7 pandemic, and so when we came out of the pandemic, she
8 had laid off her employees and so I just brought her
9 business under my umbrella.

10 So she really doesn't do anything, have
11 anything to do with the work that I do, and I don't
12 really have anything to do with the work she does,
13 although sometimes we're working on the same case for
14 different reasons.

15 Q. All right. Describe for me what her side of
16 the business does.

17 A. So she works with attorneys to provide trial
18 techs for trials, to develop litigation exhibits, to
19 facilitate e-discovery, to interview witnesses, and so
20 forth, and probably the bulk of her activity in the last
21 five or six years is she has a couple contracts with
22 major wildfire plaintiff litigators and she
23 interviews all of their victims and does witness impact
24 statements.

25 Q. Is your wife at all involved in the Wadsworth

1 case?

2 A. Not at all.

3 Q. What's your wife's name again?

4 A. Allie, A-l-l-i-e.

5 Q. Anyone else within your business, whether it's
6 a direct employee or consultant-wise, involved in the
7 Wadsworth case?

8 A. So on one of the inspections, the second joint
9 inspection, I was unavailable, so I dispatched Austin
10 Birdsong from Apex, A-p-e-x.

11 Q. And that was the August 2022 inspection?

12 A. Correct. And he's one of the regular contract
13 people that I use.

14 Q. Anyone else besides you and Austin that have
15 done any work on the Wadsworth case?

16 A. Not on behalf of my company, no.

17 Q. Okay. In going through your report, it looks
18 like you are -- you were retained to provide a point of
19 origin opinion; is that correct?

20 A. Correct.

21 Q. Okay. Are you providing a cause opinion in
22 this case?

23 A. I'm reporting it, but I'm not the one that had
24 responsibility for that analysis.

25 Q. So are you relying on BEAR Engineering or the

1 BEAR entity, the Berkeley Engineering And Research?

2 A. I think.

3 Q. B-E-A-R -- it's an acronym, all capitalized --
4 for the cause determination in this case?

5 A. I will defer to them for the specifics of the
6 sequence of ignition, yes.

7 Q. When you say "sequence of ignition," you're
8 talking about the initiation of the fire?

9 A. Correct. So I think it's fair to take a look
10 at it, I'm providing the origin. They then looked at
11 the cause or ignition factor, although there is some
12 overlap.

13 Q. But as far as the specific alleged failure mode
14 with respect to the hoverboard, you are not providing
15 any opinions in that regard?

16 A. I am not.

17 Q. And you are not providing any opinions with
18 respect to the lithium-ion batteries that were within
19 the hoverboard; correct?

20 A. I am not, that's correct.

21 Q. And you are not providing any opinions with
22 respect to the design or manufacture of the hoverboard;
23 correct?

24 A. That's correct.

25 Q. Now, you indicated that sequence of ignition,

1 you're deferring to BEAR on. At some point, you did an
2 analysis on fire spread, though; correct?

3 A. Correct.

4 Q. Okay. So where do you pick up from where they
5 drop off?

6 A. So they really pick up from where I drop off.
7 I identified the origin of the fire, and within that
8 origin I identified two potential sources of ignition --
9 well, three potential sources of ignition, and then they
10 picked up from there.

11 Q. Okay. What are the three potential sources of
12 ignition?

13 A. The hoverboard and any -- at the time, any
14 associated charging components, the electrical outlet
15 for Bedroom No. 4 on the wall behind the refrigerator,
16 and then thirdly, initially, I included the refrigerator
17 as a potential source because of its location on the
18 other side of that bedroom wall.

19 Q. Was the hoverboard charging at the time of the
20 accident -- of the fire?

21 A. There's testimony that it had been charging at
22 the end of the day's use and prior to the fire, but I
23 concur -- and I did not see and I concur that in the
24 photographs of the joint inspection of the evidence,
25 there were no electrical plugs in that outlet.

1 Q. Okay. So based on your investigation, you've
2 concluded that the hoverboard was not charging at the
3 time of the fire; correct?

4 MR. AYALA: Form.

5 THE WITNESS: I don't see any evidence that
6 says that it was, but I can only speak to how I found
7 the electrical outlet post incident, and not having any
8 of the blade plates in there, that would seem to be
9 indicative that the charger was not plugged in at the
10 time of the fire, yes.

11 BY MR. LaFLAMME:

12 Q. Okay. So there were no blade plugs in the
13 outlet directly behind the hoverboard; correct?

14 A. Correct.

15 Q. There was no wiring from any charging device
16 found by the hoverboard; correct?

17 A. Correct.

18 Q. And there was no indication on the female end
19 of the receptacle on the hoverboard that anything had
20 been plugged in at the time of the fire; correct?

21 A. So that's something I didn't -- I looked at
22 briefly in the field, but I didn't do a detailed
23 analysis of that, but I'm not aware of any evidence of
24 that.

25 Q. Okay. So based on the physical evidence,

1 you're not aware of any evidence that would suggest this
2 hoverboard was plugged in at the time of the fire; true?

3 A. True. That's correct.

4 Q. And this fire was first identified by Gunner
5 and Layne Wadsworth; correct?

6 A. Correct.

7 Q. And Gunner and Layne, we've referred to it as
8 Bedroom 4, that was their bedroom; correct?

9 A. Correct.

10 Q. All right. And they were in a bunk bed that
11 abutted the wall and window for their bedroom?

12 A. Correct.

13 Q. And when they first woke up, that window had
14 already been breached or broken; correct?

15 MR. AYALA: Form.

16 THE WITNESS: I haven't read any testimony that
17 that's their testimony. There is testimony that Gunner
18 in particular recalls that there were shards of glass in
19 the bed.

20 BY MR. LaFLAMME:

21 Q. Okay. And that's when he woke up; correct?

22 A. Yes.

23 Q. And you've seen the interview with -- that
24 Detective Sheaman did with the Wadsworth boys; correct?

25 A. Correct.

1 Q. And in that interview Gunner describes how when
2 he woke up, the window had already broken; correct?

3 A. I don't recall. It's been a while since I've
4 watched it, but I'm not doubting your representation.

5 Q. Well, we can pull it up if you'd like to.

6 A. No, I'm fine.

7 Q. Okay. You agree that that's what Gunner said
8 to Detective Sheaman; correct?

9 A. That's my recollection, yes.

10 Q. All right. So when the boys woke up, based on
11 the evidence that's in the record, you'd agree that the
12 fire was already at the window; correct?

13 MR. AYALA: Form.

14 THE WITNESS: Correct. And I think that's
15 consistent with Gunner's other testimony.

16 BY MR. LaFLAMME:

17 Q. Okay. And that's the window of -- just so I'm
18 clear as to what window -- the window of Bedroom No. 4?

19 A. Correct.

20 Q. And there's only one window in that bedroom;
21 correct?

22 A. That's correct.

23 I'll stop you if I think we need to identify
24 something --

25 Q. Okay.

1 A. -- more precisely.

2 Q. Was there any arcing found in the house?

3 A. Not that I'm aware of; however, I did not
4 undertake to study that or not.

5 Q. Was there any arcing found anywhere on the
6 site?

7 A. There are reports and there are photographs of
8 what appear to be electrical anomalies on electrical
9 wiring in the shed located in front of the house
10 outdoors.

11 Q. Okay.

12 A. But I wasn't present for that evidence
13 inspection and I've never had a close-up look at those
14 artifacts, and I would defer to the electrical engineers
15 that were present.

16 Q. Do you know if the electrical engineers that
17 were present for the Wadsworth family have been named as
18 experts in this case?

19 A. I'm not aware that they are, but I don't know
20 who all of the experts are in this case.

21 Q. So based on your involvement in the case, you
22 just don't have an opinion one way or the other as to
23 whether the anomalies, as I think you termed it, on the
24 wiring at the shed outside was indeed arcing; correct?

25 A. Correct.

1 Q. You agree that there are electrical anomalies
2 that were identified out at the shed?

3 A. Correct.

4 Q. Okay. And those anomalies do have an
5 appearance of arc damage; correct?

6 A. They do. Those anomalies that were marked with
7 the colored wire ties would be things that I would want
8 an electrical engineer to look at under a microscope,
9 and if I was present, I would have looked under the
10 microscope, too, and formed more of an opinion.

11 Q. Okay. Have you seen the microscopic images of
12 the arc damage?

13 A. I have not.

14 Q. Were you aware any were taken?

15 A. I saw a reference to marking things for the
16 microscope in something that I read, but I don't think
17 that I've ever seen the images.

18 Q. Did any circuit breakers trip in the house?

19 A. Not that I'm aware of, no.

20 When I was there on Day 1, which was in May of
21 2022, there were no circuit breakers that were
22 identifiable in the tripped position.

23 There was a single circuit breaker in the
24 subpanel that was off, and I think it was marked for a
25 washing machine.

1 Q. No circuit breakers had tripped that would have
2 controlled power to Bedroom 4; correct?

3 A. Not that I'm aware of, no.

4 Q. All right. So when you were first engaged in
5 this case, that would be reflected in your invoicing?

6 A. Correct.

7 MR. LaFLAMME: So we'll mark as Exhibit 93 --
8 we have copies for you if you want them.

9 MR. AYALA: Sure.

10 MR. LaFLAMME: Take that paper weight off for
11 me.

12 MR. AYALA: Yeah, I'll do that.

13 (The aforementioned document was
14 marked as Exhibit 93 for identification
15 and is attached hereto.)

16 BY MR. LaFLAMME:

17 Q. And then we'll also mark as Exhibit 94, I
18 believe that's the Apex bill to you?

19 A. Yes.

20 (The aforementioned document was
21 marked as Exhibit 94 for identification
22 and is attached hereto.)

23 BY MR. LaFLAMME:

24 Q. And then just so we're complete, I think you
25 had another -- ah, I have it in front of me.

1 (The aforementioned document was
2 marked as Exhibit 95 for identification
3 and is attached hereto.)

4 BY MR. LaFLAMME:

5 Q. All right. So the three exhibits that we have
6 in front of you which would be 93, 94, 95, does that
7 encompass the full invoicing in this case?

8 A. To date, yes. So that would be through the end
9 of July 2024.

10 Q. Then you've obviously had some additional work
11 in preparation for the deposition and then the
12 deposition here today; correct?

13 A. Correct.

14 Q. Okay. And I assume that will be invoiced at
15 some point in the near future?

16 A. Yes.

17 Q. So in looking at your invoicing, it looks like
18 you were first retained on February 17th. That's on the
19 second page of Exhibit 93?

20 A. Correct.

21 Q. All right. And on that entry, that's where it
22 indicates "open a new case file," and is that the first
23 date that you would have done work on this case?

24 A. Yes.

25 Q. And that is about just a little more than two

1 weeks after this fire occurred; correct?

2 A. Correct.

3 Q. Then it just goes through, you have some
4 additional entries on February 19th, 2022,
5 February 22nd, 2022, March 16th, 2022, and then we get
6 to May 17th through the 19th, 2022, which is when there
7 was a site inspection scheduled; correct?

8 A. Correct.

9 Q. And the site inspection that was scheduled, I
10 think it was scheduled to be a multiple Day 1, but it
11 was cut short because other parties needed to be put on
12 notice; correct?

13 A. Correct.

14 Q. All right. So with respect to the May site
15 inspection, I was there as well, I seem to recall that
16 it went about three to four hours.

17 Is that about right?

18 A. I think that sounds about right.

19 Q. And at that site inspection, your activities
20 were limited to documenting and visually observing the
21 fire scene; correct?

22 A. Correct. I interviewed Mr. Wadsworth, and then
23 I did an inspection and documentation of the fire scene,
24 and as part of that examination and documentation, I did
25 a heat and flame vector analysis.

1 Q. Was that a written heat and flame vector
2 analysis?

3 A. I made notes. So they should be attached to my
4 inspection notes from that date, so I noted it on
5 diagrams.

6 Q. What would that be called in your file?

7 A. Uhm, let me open it. I'm not sure how I filed
8 it.

9 Q. Just your notes?

10 A. Yeah. I think I had it separately probably by
11 the date maybe.

12 Q. Okay. So we have some notes dated 5/18/2022?

13 A. That's it. So there should be notes in the
14 diagrams attached to it at the end.

15 Q. And I'll probably print this off on a break and
16 we can go through it then.

17 A. Okay. I have the original copy here and I've
18 already digitized it, so --

19 Q. Okay. You don't mind marking that?

20 A. I don't mind marking this because --

21 Q. All right. Let's do it that way.

22 (The aforementioned document was
23 marked as Exhibit 96 for identification
24 and is attached hereto.)

25 ///

1 BY MR. LaFLAMME:

2 Q. All right. So I've handed you what's been
3 marked as Exhibit 96 which is a copy of your notes from
4 the 5/18/2022 inspection.

5 A. Correct.

6 Q. Okay. And it notes -- on the first page, it
7 notes that the inspection started at 9:30 a.m.; correct?

8 A. Correct.

9 Q. All right. And then getting through your
10 notes, starting on Page 10 is -- are some diagrams?

11 A. Correct.

12 Q. Okay. And this is what you have for your notes
13 for your flame and vector analysis; correct?

14 A. From that day, yes.

15 Q. Okay. Have you done any other flame and vector
16 analysis beyond that day in May of 2022?

17 A. So what I did this weekend, I went and picked
18 out representative photographs that correspond to this
19 and then I've individually annotated them.

20 Q. Okay.

21 A. So while doing this, I'm taking photographs to
22 photographically document the heat and flame vector
23 analysis and I picked out those photographs, and that's
24 one of the things I brought for you today.

25 Q. All right. Why don't we mark this as

1 Exhibit 97.

2 A. So that's going to be the --

3 Q. Or am I on the wrong one?

4 A. No, that's it, but the -- yeah, that is a copy
5 for you to mark. This is the original (indicating).

6 Q. Do you want me to mark -- we can go off the
7 record.

8 (Discussion held off the record.)

9 BY MR. LaFLAMME:

10 Q. So I've handed you what's been marked as
11 Exhibit 97, and those are pictures that you pulled over
12 the weekend, I understand?

13 A. Correct.

14 Q. And these are supposed to be in companion with
15 your flame and vector analysis that's in Exhibit 96?

16 A. Correct. I went back and picked out
17 representative photographs.

18 (The aforementioned photographs were
19 marked as Exhibit 97 for identification
20 and are attached hereto.)

21 BY MR. LaFLAMME:

22 Q. Okay. So a flame and vector analysis, as I
23 understand it, that basically is just a diagram or a
24 graph of the way in which you believe the flames moved
25 through the structure?

1 A. Well, the process is the location of fire
2 patterns within the fire incident scene, the
3 identification of those fire patterns, in other words,
4 what type are they and what do they indicate.

5 And then the third part of the analysis is to
6 create a heat and flame vector analysis diagram that
7 allows you to track the fire incident from its origin
8 and then follow its progression and development.

9 Q. Okay. So on the first page of your written
10 flame and vector analysis of Exhibit 96, that's the
11 front of the structure; correct?

12 A. Correct.

13 Q. Okay. And what photographs are you correlating
14 to this portion?

15 A. So it would be -- out of Exhibit 97, it would
16 be Exhibits 3 --

17 Q. "Photographs."

18 A. You're right, Photographs 3, 4, and 7.

19 Q. Any others in there?

20 A. Not for the front of the house, no.

21 Q. So in looking at the front of the house, you
22 have on Exhibit 97 also added some markings on here;
23 correct?

24 A. Correct.

25 Q. Okay. Were those markings also added this

1 weekend?

2 A. Yes. That's really what I did this weekend is
3 annotated them with these markings.

4 Q. Okay. So looking at the markings on
5 Photographs 3, 4, and 7, starting on 3, you have arrows
6 pointed up and then dotted arrows pointing down?

7 A. Correct.

8 Q. Is there a difference between a solid arrow and
9 a dotted arrow?

10 A. The dotted arrows are, I'm indicating, fall
11 down.

12 Q. Okay. So for Photo No. 3, you're indicating
13 that at least we're looking at the kitchen windows
14 there; correct?

15 A. Correct.

16 Q. Okay. That once the fire breached the kitchen
17 windows, there was flame that went upward into the eaves
18 of the house?

19 A. Correct.

20 Q. And there was some fall down that came from the
21 windows as well?

22 A. Correct, all along the ground there.

23 Q. Okay.

24 A. So, for instance, on the fall down, I put two
25 arrows, but there is fall-down material all along that

1 length of the front of the house below the windows.

2 Q. Okay. This would have been later in the fire
3 when this occurred, this damage?

4 A. Yes.

5 Q. Okay. Because you have to get the fire to
6 travel from through the house into the kitchen; correct?

7 A. Correct. So as a benchmark, the occupants are
8 out of the house when this is happening.

9 Q. Looking at Photo 4, what does the circle
10 indicate?

11 A. The circle is indicating that is the swath of
12 fall-down materials from those, uhm, I refer to them as
13 three windows, but from that series of windows, however
14 you want to count the panes.

15 Q. And then what is the diagonal arrow? What does
16 that mean?

17 A. That is a pattern that is on the front door
18 that shows that at some point when the front door was
19 open, the fire was moving across the face of the door in
20 that direction. It's now in the closed position in this
21 photograph.

22 Q. Do you have an understanding as to when the
23 fire -- or when that door was opened in the fire?

24 A. It was open during the escape sequence, but
25 when they opened the door, they felt a lot of heat and

1 so they abandoned that exit path.

2 Q. They were unable to escape through that front
3 door; correct?

4 A. They chose not to escape from that front door
5 because they viewed that the heat was -- there was too
6 much heat.

7 Q. All right. And too much heat on the outside of
8 the door?

9 A. Correct.

10 Q. Meaning --

11 A. They identified heat coming in through the door
12 and chose not to exit, use that door; they went to an
13 alternative exit.

14 Q. So the heat that the Wadsworth occupants
15 identified was on the exterior side of that door;
16 correct?

17 A. Correct.

18 Q. All right. Then looking at Photo 7, you have
19 some yellow lines, the red fall-down lines, and then the
20 red solid arrows?

21 A. Correct.

22 Q. So what are we looking at here?

23 A. So the dotted red lines again are fall-down
24 materials that are falling down into the front of the
25 house, and the arrows are the heat and flame vectors

1 showing the progression and development of the fire
2 plume out of that window. The location of those arrows
3 identify the base of that fire plume as having been at
4 the window level.

5 And then the two yellow lines are, I've marked
6 those two lines of demarcation to show that the damage
7 to the brickwork on the front of the house is straight
8 up, kind of a columnar shape which would represent the
9 second phase of the development of a fire plume.

10 So when I compare the fire plume denoted by the
11 red arrows compared to the one denoted by the -- in
12 between the yellow lines, the fire plume coming out of
13 the window occurred first because it's fully developed
14 in a conical shape.

15 Q. Okay. And above that window area is the
16 electrical service that comes into the house; correct?

17 A. On the righthand side there, yes.

18 Q. And that comes diagonally across the window?

19 A. Correct.

20 Q. Meaning --

21 A. Yeah, I think we need to define which way we're
22 seeing the diagonals.

23 Q. Yeah, so --

24 A. From upper right at the post, it comes across
25 towards the lower left --

1 Q. Okay.

2 A. -- in that direction, the diagonal.

3 Well, let's just make it -- it crosses over
4 the -- it crosses over the area in front of that bedroom
5 window.

6 Q. Okay. And crosses over the area where the
7 smoking shed was?

8 A. Correct.

9 Q. When in your analysis did that electrical
10 service line get breached?

11 A. I don't -- I don't know any way to determine
12 that because we have venting out of this front window
13 that was pretty intense based on the witnesses and even
14 some of the police body cam videos, and then and/or it
15 could be from the -- once the smoke -- plastic smoking
16 shed is ignited and is contributing to the overall fire.

17 Q. If the fire started inside at the hoverboard,
18 when that fire initiated, this electrical service line
19 would have still been intact; correct?

20 A. It should have been, yes.

21 Q. This electrical service line, if the fire
22 started inside the bedroom, would not have been impacted
23 until there is flame coming out of that window?

24 A. Correct.

25 Q. So if the fire started at the hoverboard, then

1 this house would have had electrical power at the time
2 the fire initiated?

3 A. Correct.

4 Q. And the house would have maintained electrical
5 power to it until the fire breached through this window
6 and either the flames from the window or the flames from
7 the smoking shed, under your theory, severed it?

8 A. Correct.

9 Q. All right. We'll get back to all of this. I
10 got a little sidetracked from your invoices here, which
11 will happen.

12 All right. After your May site inspection,
13 that was the only time that you have physically seen any
14 evidence in this case; correct?

15 A. Correct.

16 Q. And there was a follow-up August site
17 inspection with a number of additional parties; correct?

18 A. Correct.

19 Q. You did not attend that?

20 A. I did not.

21 Q. Mr. Birdsong attended on your behalf?

22 A. Correct.

23 Q. All right. Why did you not attend it?

24 A. I think I had a trial conflict or something.

25 Originally, I was scheduled to attend and he

1 was going to come as well to do the scanning for me, and
2 then I couldn't attend, so he attended by himself.

3 Q. Okay. Mr. Birdsong is not an origin and cause
4 expert; correct?

5 A. I don't use him in that role. I use him as a
6 technician. I do believe he would qualify as an origin
7 and cause expert if he chose to.

8 Q. Does he have his CFEI?

9 A. I'm not sure, but I've worked with him long
10 enough that I understand his abilities.

11 Q. Does he have a CFI?

12 A. I don't know the answer to that.

13 Q. Okay. Do you know what his background is prior
14 to joining Apex?

15 A. I don't really know.

16 Q. Have you ever looked at his LinkedIn page?

17 A. No.

18 Q. He lists himself as an IT Architect/Media
19 Manager for Apex Fire Services.

20 A. That's one of his major roles. He does all the
21 computer stuff.

22 Q. Why is it you think he would qualify as an
23 origin and cause expert?

24 A. Based on the training that I've known that --
25 I'm familiar that he's taken and the years of experience

1 of working on fire scenes.

2 Q. Has he ever acted as an origin and cause expert
3 for you?

4 A. No, I've never used him that way. I only use
5 him as a technician.

6 Q. And when you say "technician," do you mean
7 someone that will, for example, do drone footage,
8 Matterport scans, other types of technical aspects for
9 documenting the scene?

10 A. Correct.

11 Q. Do you know if Apex fire uses Austin Birdsong
12 as an origin and cause expert at all?

13 A. He participated in their investigations, but
14 I'm not sure what role they acknowledge him as holding.

15 Q. Do you know if he has ever been retained for a
16 fire scene as an origin and cause expert?

17 A. I don't know that as I sit here.

18 Q. Do you know if he has taken any origin and
19 cause training or undergone any origin and cause
20 training?

21 A. I believe that he has, but I don't know what
22 his training repertoire is.

23 Q. As you sit here today, you do not know what
24 Mr. Birdsong's origin and cause training is; correct?

25 A. I don't know what the totality of it is. I

1 just know that I've seen him at training seminars.

2 Q. And you're not aware of any origin and cause
3 certifications that he has obtained; correct?

4 A. Not as I sit here, no.

5 Q. Are you aware of how the Apex fire website
6 describes Austin Birdsong's background?

7 A. I haven't looked at that website in a long
8 time.

9 Q. It's described as joining Apex in 2015 with a
10 background in IT/Media, "Mr. Birdsong serves as the
11 IT/Media Manager at Apex. With six years of the
12 IT/Media Industry, he helps deploy new technology within
13 the company and manages the information systems of Apex
14 and its employees. His experience includes employment
15 at Sagemont," S-a-g-e-m-o-n-t, "Church where he served
16 five years as a media technician and lead lighting
17 designer."

18 You'd agree that there's no description in
19 there of him being an origin and cause expert; correct?

20 MR. AYALA: Form.

21 THE WITNESS: Correct, but I also know that
22 that description does not encompass the roles that I've
23 seen him participate in in many, many different origin
24 and cause investigations that I've been involved in --

25 ///

1 BY MR. LaFLAMME:

2 Q. Okay.

3 A. -- even those where he's not working as a
4 technician for me.

5 That's how I was aware of his skills and was
6 able to have him cover this assignment.

7 Q. Did Mr. Birdsong do anything besides photograph
8 the site in August of 2022?

9 A. He did the Matterport scanning and he did
10 photographic documentation, and he did the diagramming
11 of the incident scene independent of the
12 Matterport-generated scans.

13 If I were to mark his No. 1 specialty, he's by
14 far one of the best fire scene diagrammers I've ever
15 seen.

16 Q. We'll mark as Exhibit 98, these were from your
17 file which indicate "Birdsong Involved Structure
18 Diagrams."

19 Do you see that?

20 A. Correct.

21 (The aforementioned document was
22 marked as Exhibit 98 for identification
23 and is attached hereto.)

24 BY MR. LaFLAMME:

25 Q. Okay. And are these the notes that you are

1 indicating -- or the diagrams that you're indicating
2 that he did?

3 A. Correct, independent of the Matterport diagrams
4 that he generated.

5 Q. Correct.

6 A. And the only difference is there's a few more
7 of these in my case file, but he provided some without
8 the graph paper lines.

9 Q. Okay. So the other diagrams that are in your
10 case file, they're similar to what we see here in
11 Exhibit 98; correct?

12 A. That's where I printed these from.

13 Q. Okay.

14 A. And then under Matterport scan, under his
15 Matterport data, you'll see some other diagrams of the
16 incident scene that are generated automatically by
17 Matterport.

18 Q. And the Matterport process involves setting up
19 the scanner, letting it run its 360 in each area where
20 you want a data point and then that is then developed
21 into a 3D scan; correct?

22 A. Correct. And then from that they generate
23 floor plans for you.

24 Q. Okay. Do you know if Mr. Birdsong assisted in
25 processing the fire scene in August of 2022?

1 A. I know that he did.

2 Q. Okay. What was his involvement in that regard?

3 A. He's the one that I had him define the search
4 grids and then I have him over -- supervise the
5 searching of the different search grids, another thing
6 that he routinely does at fire and explosion scenes for
7 as long as I've known him some 20 years.

8 Q. So the search grids would be shown on Page 4 of
9 Exhibit 98?

10 A. Correct, and he originally defined those.

11 Q. Okay. Do you know if he was -- was he actually
12 involved in the processing of the scene or did he just
13 oversee it?

14 A. I wasn't there, so I don't think -- I don't
15 know that I can answer that question, but he was there
16 to supervise it and make sure that the evidence got
17 marked properly out of those search grids.

18 Q. Okay. Do you know if he was involved in
19 actually shoveling out the fire debris and sifting
20 through it?

21 A. I don't know the extent of his involvement. I
22 don't know that I've ever discussed that with him.

23 Q. In looking at the search grids that he put
24 together, so there's a Search Grid A-1 and then B-1 that
25 seem to indicate the areas of where the hoverboard was

1 located.

2 A. That's the search grids that it was located in,
3 yes, a traversable search grids.

4 Q. And in neither of those grids was a hoverboard
5 charger found; correct?

6 A. Correct.

7 Q. And there was no hoverboard charger found
8 anywhere in the Bedroom 4?

9 A. Correct.

10 Q. Did you visit with Mr. Birdsong after the
11 August inspection?

12 A. I did when he compiled all his data and so
13 forth and transferred it to me.

14 Q. And what did that discussion entail?

15 A. He walked me through the day. He compared what
16 was actually done compared to the protocol which I had
17 written for that day and indicated that they were able
18 to execute everything in the protocol.

19 And most importantly, the question I always
20 ask, "Were all the parties that were there, did
21 everybody get to do what they wanted?" and he assured me
22 that he facilitated that.

23 Q. Did he indicate to you that they -- in August
24 of 2022 is when the potential arc damage areas were
25 identified at the shed?

1 A. He did.

2 Q. And Mr. Birdsong, was he involved in attempting
3 to identify any arc damage on the interior portions of
4 the house?

5 A. I don't know if he was involved in that or not
6 because the plaintiffs' attorney at the time also had an
7 electrical engineer there.

8 Q. And that was Daren Schlee?

9 A. Yes.

10 Q. I think that's S-c-h-l-e-e.

11 A. Yes, I think that's correct.

12 Q. And you're aware that Mr. Schlee has not been
13 named as an expert in this case?

14 A. I haven't seen the name; so I'm making that
15 assumption, yes.

16 Q. Have you ever had any discussions with Daren
17 Schlee?

18 A. I have not.

19 Q. So as far as what Mr. Schlee found during the
20 August 2022 site inspection, you don't know what that
21 is?

22 A. Correct, I don't.

23 Q. After the August 2022 site inspection, it looks
24 like you did not really have any further involvement
25 until March of 2024 when you had a telephone conference

1 with Mr. Ayala?

2 A. That's correct.

3 Q. Were you ever made aware that there was an
4 evidence inspection that occurred at Palmer's lab in
5 Salt Lake City in October of 2023?

6 A. I was not until March of 2024.

7 Q. That's something you would have liked to have
8 been made aware of?

9 A. Depending what they expected me to -- depending
10 if they expected me to continue working on the case or
11 not, then I probably would have made an indication of
12 whether I needed to be there or not.

13 Q. Was there any --

14 A. So I really heard nothing from the client after
15 the August 2022 joint inspection until March of 2024.

16 Q. Was there an indication after the August 2022
17 inspection, at some point between then and March of
18 2024, that they were not going to use you on the case
19 anymore?

20 A. I was never told that.

21 Q. Okay.

22 A. So I just kept the case open.

23 Q. You just did not receive any information?

24 A. Correct. The last thing -- the last
25 information I received from Mr. Goody following the

1 August 2022 inspection is that he was going to refer the
2 case and associate -- I didn't know that it was
3 Mr. Rudwin, but he told me he was going to refer the
4 case to Morgan & Morgan. That's the last thing I heard.
5 That would have been probably the week after the joint
6 inspection.

7 Q. Okay. As an origin and cause investigator, you
8 would want to be involved in evidence inspections;
9 correct?

10 MR. AYALA: Form.

11 THE WITNESS: Again, it depends on what's being
12 inspected and what my role continued to be.

13 If my role -- if they still wanted me to
14 address causation and sources of ignition and ignition
15 sequences, then yes, I would have said I absolutely have
16 to return. I have to return.

17 If somebody else was going to address that,
18 then it wasn't necessary for me to be there, but I would
19 have made sure that the client had an electrical
20 engineer there.

21 Q. So you think from an origin analysis, it was
22 not necessary for you to be at the lab inspection?

23 A. I did not, because I had all the data and
24 information I needed to do the origin determination.

25 Q. Okay. So from an origin perspective -- strike

1 that.

2 When you've been hired to do an origin analysis
3 of a fire and there are subsequent evidence inspections
4 following a site inspection, it's typical for you to
5 attend the evidence inspection; correct?

6 MR. AYALA: Form.

7 THE WITNESS: A lot of clients have me go to
8 all of those, but I don't always glean any new
9 information that I need for my role in the case.

10 BY MR. LaFLAMME:

11 Q. Okay.

12 A. And this was not a unique case. It's a little
13 bit different because all they were looking for me was
14 to establish the origin of the fire.

15 Q. Even when you were just establishing the origin
16 of the fire, it is more typical for you to go to an
17 evidence inspection that follows a site inspection;
18 correct?

19 MR. AYALA: Form.

20 THE WITNESS: More typically, yes.

21 BY MR. LaFLAMME:

22 Q. Aside from an origin analysis in this case, are
23 you offering any other opinions with respect to this
24 fire?

25 A. No.

1 Q. Are you offering any opinions with respect to
2 the sequence and propagation of the fire?

3 A. Progression development, yes, that's part of
4 the heat and flame vector analysis. So I did an
5 analysis of how the fire progressed and developed
6 through the whole house.

7 Q. From August 2022 to March 18th, 2024, did you
8 do any work on this file?

9 A. Nothing.

10 Q. Are you aware of the individuals that went to
11 the October evidence inspection?

12 A. I am from reading the case file, and that's you
13 one of the sets of new notes I added. I just like to
14 remember their names.

15 Q. I have it for you. Richard Dyer and Scott
16 Kramer?

17 A. Yes. It's Scott's name I couldn't remember.

18 Q. All right.

19 A. So that's one of the new sets of notes I had.
20 I just added their names that they were at that
21 inspection.

22 Q. Richard Dyer, do you know what his background
23 is?

24 A. He started out in the Fire Marshal's Office.
25 Well, he grew up, his father being the Fire Chief, a

1 very famous Fire Chief, and he actually got his nickname
2 "Smokey" from being a young kid in his father's
3 firehouse, and then he worked for the State Fire
4 Marshal's Office and then eventually -- I don't know all
5 his progression -- eventually was the Chief of the
6 Kansas City Fire Department.

7 Q. He's an origin and cause expert?

8 A. He is.

9 Q. Similar to the role that you are playing in
10 this case?

11 A. Correct.

12 Q. Did you ever speak with Mr. Dyer about his
13 findings with respect to the evidence inspection?

14 A. I have not. I was only provided with his
15 photographs from that inspection.

16 Q. How about Mr. Kramer, did you ever speak with
17 him?

18 A. I did not.

19 Q. Have you ever requested to physically review
20 the evidence that's at Palmer's lab?

21 A. I have not. I requested to see the photographs
22 of what evidence that they had looked at there, and I've
23 reviewed those photographs -- well, I've reviewed Smokey
24 Dyer's photographs of that.

25 Q. You're aware that Smokey Dyer is not a named

1 expert in this case; correct?

2 A. I'm coming to understand that here today, yes.

3 Q. Okay. And you're aware that Scott Kramer is
4 not a named expert in this case; correct?

5 A. The same realization, yes.

6 Q. Do you know how many experts plaintiffs have
7 had in this case in total?

8 MR. AYALA: Form.

9 THE WITNESS: Did you say "four" or "form"?

10 MR. AYALA: Form.

11 BY MR. LaFLAMME:

12 Q. He said "form."

13 A. Oh, "form," okay.

14 Besides myself, I'm only aware of Mr. "Schlay"
15 of "Schlee," however he pronounces it, Smokey Dyer, and
16 Mr., is it Kramer, did you say?

17 Q. Kramer.

18 A. Kramer, right.

19 Q. And you're aware that none of those other three
20 experts have been named as experts in this case or
21 designated?

22 A. Well, I am aware of one more expert and that's
23 Mr. King, Derek King.

24 Q. Okay.

25 A. So besides Derek King, he's the only one that I

1 know for certain, as I sit here today, has been named as
2 an expert.

3 Q. Do you know what King's involvement has been in
4 any of the inspections that have been conducted?

5 A. My understanding is he did an independent
6 examination, inspection and evaluation of the remains of
7 the subject hoverboard.

8 Q. Have you ever spoken with Mr. King?

9 A. I have not.

10 Q. Have you ever spoken with anyone at BEAR about
11 this case?

12 A. I have not.

13 Q. Have you ever spoken with Cristal VanDongen
14 after the April -- or after the August 2022 inspection?

15 Let me ask you this first: Do you know who
16 Cristal VanDongen is?

17 A. I do. She's the insurance investigator for the
18 ICS company.

19 I think after the inspection, she called me
20 once because she was looking for someone to help pay for
21 her invoices and time from that August inspection and I
22 referred her to Mr. Goody.

23 Q. Okay.

24 A. So we didn't discuss the case at all.

25 I said, "I'm not the person to talk to about

1 your invoices that you want contributions to. You have
2 to talk to Mr. Goody."

3 Q. V-a-n-D-o-n-g-e-n, and Cristal is
4 C-r-i-s-t-a-l.

5 You had contact with Ms. VanDongen prior to the
6 May inspection; correct?

7 A. Correct, organizing that. We collaborated on
8 that date.

9 Q. Did you have any substantive discussions with
10 her following the May 2022 inspection?

11 A. Only that I contacted her and I told her I was
12 distributing to her and all the interested parties all
13 of the Sweetwater County FOIA response information I had
14 received.

15 Q. Ever any substantive discussion with
16 Ms. VanDongen as to what her conclusions were following
17 the May and August of 2022 inspections?

18 A. No.

19 Q. You're not aware that she could not rule out a
20 fire starting at the outside smoking shed?

21 A. I'm not aware of any of her opinions.

22 Q. How about with Mr. Palmer, the electrical
23 engineer, did you ever have any discussions, substantive
24 discussions with him about his findings?

25 A. I have not.

1 Q. So it sounds like with respect to all of the
2 other experts that have been involved either for the
3 Wadsworth family or for Farmers, the property insurer,
4 you have not had any substantive discussions with any of
5 them?

6 A. I have not. I stayed in my lane.

7 Q. Have you read Mr. King's report?

8 A. I have not.

9 Q. Have you read Mr. King's deposition?

10 A. I have not.

11 Q. Are you familiar with Mr. King's background?

12 A. I am not.

13 Q. Do you know he just got his PE license last
14 year?

15 A. I'm not aware of that.

16 Q. Are you aware that he has never been designated
17 as an expert in a lithium-ion battery case?

18 MR. AYALA: Form.

19 THE WITNESS: I would have no knowledge of
20 that.

21 BY MR. LaFLAMME:

22 Q. Do you know what Mr. King's opinion is in this
23 case as far as the failure mode?

24 A. As far as the failure mode, no.

25 Q. Okay. His opinion in this case is that

1 Cells 10 and 4 had an internal short circuit which then
2 initiated the fire.

3 Are you aware of that?

4 MR. AYALA: Form.

5 THE WITNESS: I wasn't given -- the cell number
6 designations weren't identified to me.

7 What I was advised by my client is that he had
8 completed his examination and was going to testify that
9 the fire started within the hoverboard and that it was
10 the source of ignition for this fire.

11 BY MR. LaFLAMME:

12 Q. Okay. Were you ever told that his opinion was
13 going to be that two separate cells had an internal
14 short circuit that ignited the fire?

15 A. I wasn't given that specificity, but I could
16 see from my exam of the hoverboard, a visual exam and
17 from the subsequent X-rays that were taken that there
18 was more than one cell that had failed.

19 Q. Do you know how an internal short circuit
20 occurs with a lithium-ion battery cell?

21 A. So the train -- I'm not a lithium-ion battery
22 expert, so that's why I said they needed an electrical
23 engineer.

24 So I'm aware that it is often the original
25 construction of the battery or its contaminants within

1 the battery, but I just a general awareness of how they
2 fail.

3 I'm certainly not going to speak to how the
4 batteries in this hoverboard failed.

5 Q. Do you know how an internal short circuit
6 actually occurs within the internal portions of a
7 lithium-ion battery cell?

8 A. I don't. I've seen presentations that give
9 overviews of it, but I don't pretend to be an electrical
10 engineer.

11 Q. And you will not be offering any opinions in
12 this case as to the exact -- the specific failure mode,
13 alleged failure mode with the lithium-ion batteries;
14 correct?

15 A. I can guarantee you of that.

16 Q. Okay. Have you ever -- you've done other
17 lithium-ion battery cases; correct?

18 A. I've been involved in other cases in which
19 lithium-ion batteries are a subject, and I always tell
20 my clients and defer to electrical engineers.

21 Q. Have you ever been involved in another case
22 that you can think of where two independent -- where
23 it's alleged that two independent cells have an internal
24 short circuit at virtually the same time?

25 A. I really don't know that I can say yes or no to

1 that because I'm usually not involved in that part of
2 the case.

3 Q. Okay. Are you able to state, one way or the
4 other, whether it's unusual for two lithium-ion battery
5 cells to have internal short circuits at virtually the
6 same time?

7 MR. AYALA: Form.

8 THE WITNESS: I don't have any frame of
9 reference to determine whether it's unusual or not.

10 BY MR. LaFLAMME:

11 Q. You can put the invoices to the side probably
12 wherever you put those.

13 A. Yeah, I'm going to put all the marked exhibits
14 down here.

15 Q. Have you viewed all of the body camera footage
16 in this case?

17 A. I have.

18 Q. Not all of it was in your expert file.

19 A. Well, that I'm not aware of. I have reviewed
20 everything that's in my file. That was everything that
21 was provided to me by the County of Sweetwater.

22 Q. Okay. So if we go to, in your file,
23 "Sweetwater County SO FOIA Response" --

24 A. Correct.

25 Q. -- there are some videos and recordings there;

1 correct?

2 A. Correct. That's all that was ever provided to
3 me by them.

4 Q. Okay.

5 A. So if there's more than that, I don't know that
6 sitting here.

7 Q. All right. Are you aware of Ashley Merrill's
8 body camera footage where there were statements from the
9 Wadsworth children about what they witnessed in the
10 early stages of the fire?

11 A. I've read that in the other depositions.

12 Q. Okay. You have not listened to that, those
13 statements?

14 A. I don't know if I recall hearing that when I
15 first reviewed these body cam videos.

16 Q. As in --

17 A. So most of these body cam videos aren't the way
18 I would want to identify whose body cams are there
19 necessarily.

20 Q. As an origin and cause expert, you would want
21 to have the benefit of listening to any witness
22 statements from the immediate post-fire incident;
23 correct?

24 A. Correct. It's all data to consider.

25 Q. And the statements that are made on the fire

1 scene are obviously made immediately after the witness
2 encounters the situation?

3 MR. AYALA: Form.

4 BY MR. LaFLAMME:

5 Q. I think that probably goes without saying.

6 A. Yeah. Yeah, pretty intuitive.

7 Q. Okay. I am going to, since you haven't seen
8 these before, show you the body camera footage from
9 Ashley Merrill's body cam.

10 A. And you're representing to me that I don't --
11 this is not one of them I have in my file; right?

12 Q. I can tell you it is not.

13 A. Okay.

14 Q. Unless you have additional stuff that was not
15 put into the Dropbox.

16 A. No. Everything's there.

17 Q. All right. So this is a 30-minute video that
18 is denoted "Fire;_1620_HWY_374-2," and that's how it was
19 provided to us.

20 And you don't need to take down the audio on
21 this.

22 THE REPORTER: Okay. Great.

23 BY MR. LaFLAMME:

24 Q. All right. I'm going to go to about 5:30,
25 specifically starting at 5:27.

1 Hold on. Let me get the volume up more for
2 you. All right. And I'll back it up to 5:25.

3 (Video played.)

4 BY MR. LaFLAMME:

5 Q. Are you able to hear that well?

6 A. I am.

7 Q. Is there volume coming out of there or not?

8 A. I think it's coming out of here, yes.

9 Q. Okay.

10 (Video played.)

11 BY MR. LaFLAMME:

12 Q. Do you hear Kamille say, "It started by the
13 shed"?

14 A. I heard that, yes.

15 Q. You have not seen this video before; correct?

16 A. I have not.

17 Q. And Kamille indicated, "It started by the shed"
18 at five minutes 42 seconds.

19 A. Correct.

20 (Video played.)

21 BY MR. LaFLAMME:

22 Q. You heard Kamille and Layne there say that the
23 fire was outside by the shed?

24 A. I heard that, yes.

25 Q. Okay. And you heard Kamille indicate that her

1 parents smoke at the shed; correct?

2 A. Correct.

3 Q. Okay. And that's your understanding of what
4 the shed was used for as well; correct?

5 A. Yeah, it's always been referred to as the
6 "smoking shed."

7 Q. Okay. And you're aware that Mrs. Wadsworth did
8 smoke in that shed in the early morning hours before the
9 fire?

10 A. You want to change your screen because I can
11 see your outline.

12 Q. Oh, thanks.

13 MR. AYALA: It will tell you where he's going
14 with his questions.

15 THE WITNESS: No, that's not fair.

16 BY MR. LaFLAMME:

17 Q. Okay. You're aware that Mrs. Wadsworth smoked
18 in that smoking shed within a couple hours of the fire;
19 correct?

20 MR. AYALA: Form.

21 THE WITNESS: Correct. I think her testimony
22 was she had smoked out there and then was in the house
23 and going to bed in the living room by 2:00 a.m. So
24 sometime prior, just prior to 2:00 a.m. is the way the
25 deposition read.

1 BY MR. LaFLAMME:

2 Q. Okay. And she had indicated she would
3 typically have a cigarette before going to bed; correct?

4 A. Correct.

5 Q. And do you know how many alcoholic drinks she
6 had that night?

7 A. She was asked in her deposition, I don't
8 remember the number, but I just remember that it was
9 Jagermeister.

10 Q. And do you recall there was approximately 10
11 drinks that she had had that night?

12 A. I don't recall that number, but I'm not
13 disputing it. Whatever the deposition says. I remember
14 she was asked.

15 Q. The alcohol use is not mentioned anywhere in
16 your report; correct?

17 A. It is not.

18 Q. And you do not mention anywhere in the report
19 the statements of the Wadsworth children about the fire
20 being at the shed; correct?

21 A. Correct. This is the first time I've seen this
22 video.

23 Q. Have you heard the telephone interview with
24 Matthew Wadsworth from Detective Sheaman the day after
25 the fire?

1 A. I don't know if I've ever listened to the
2 actual audio.

3 Q. As an origin and cause expert, that's something
4 you would want to review in your investigation; correct?

5 A. I would review it --

6 MR. AYALA: Form.

7 THE WITNESS: -- and then, as I do with all of
8 this, I compare and contrast it to the physical
9 evidence, yes.

10 BY MR. LaFLAMME:

11 Q. Do you know when Mr. Wadsworth was told by
12 Detective Sheaman that he thought it was the hoverboard
13 that caused the fire?

14 A. I don't remember the exact date, no.

15 Q. Do you know if it was the day after the
16 accident?

17 A. I don't recall, as I sit here, when he
18 transferred that information.

19 Q. Would you be critical of the local investigator
20 for indicating what his preliminary thoughts are to the
21 homeowner when his investigation is not complete?

22 MR. AYALA: Form.

23 THE WITNESS: I don't really have any reason to
24 be critical of him.

25 ///

1 BY MR. LaFLAMME:

2 Q. Okay. You are a municipal fire investigator;
3 correct?

4 A. Correct.

5 Q. When you did your municipal investigations,
6 would you tell witnesses what your preliminary thoughts
7 were of the investigation before it was completed?

8 A. I never did that, no.

9 Q. And you wouldn't do that because you wouldn't
10 want to taint the witness's statements to you
11 subsequently?

12 A. That's one reason not to do it.

13 MR. AYALA: Form.

14 MR. LaFLAMME: Okay. I'm going to start
15 Sheaman's interview with Matthew Wadsworth at 11:30.

16 (Video played.)

17 BY MR. LaFLAMME:

18 Q. Those aren't any types of statements that you
19 would make to a homeowner the day after the fire when
20 your investigation is still ongoing; correct?

21 MR. AYALA: Form.

22 THE WITNESS: I would not by my personal choice
23 of how I do business.

24 BY MR. LaFLAMME:

25 Q. You would not indicate that a certain product

1 is notorious for causing fires when you have not
2 completed your fire investigation to the homeowner;
3 correct?

4 MR. AYALA: Form.

5 THE WITNESS: I wouldn't do that, no.

6 MR. LaFLAMME: Then moving up to 23 minutes,
7 33 seconds.

8 (Video played.)

9 BY MR. LaFLAMME:

10 Q. Would you make that type of statement that
11 you'd be willing to bet your next paycheck as to the
12 cause of the fire the day after the fire?

13 MR. AYALA: Form.

14 THE WITNESS: I would not do that, no.

15 BY MR. LaFLAMME:

16 Q. Okay. And just so I get my full statement out
17 here, you heard Detective Sheaman state to Mr. Wadsworth
18 the day after the fire that he would be willing to bet
19 his paycheck that it was the hoverboard.

20 That is not a statement you would ever make as
21 a municipal fire investigator to the homeowner; correct?

22 MR. AYALA: Form.

23 THE WITNESS: I would not, no.

24 MR. LaFLAMME: And then continuing on at 24
25 minutes.

1 (Video played.)

2 BY MR. LaFLAMME:

3 Q. And you heard Mr. Wadsworth there between
4 24 minutes and 24:45 seconds even tell Detective Sheaman
5 about the smoking shed; correct?

6 A. He did, yes.

7 Q. Yeah. And you read Detective Sheaman's
8 deposition in this case; correct?

9 A. I did.

10 Q. Were you surprised to see Detective Sheaman
11 testify that he was not aware of the smoking shed?

12 A. It was inconsistent with this, yes.

13 Q. And as a fire investigator, a municipal fire
14 investigator working on a case, if you are given
15 information from the witness about a smoking shed and
16 that they had concerns about the fire maybe starting in
17 there, you would look into that; correct?

18 MR. AYALA: Form.

19 THE WITNESS: I would like to think, as I did
20 in this case, that I already had considered exterior
21 origins for the fire as part of the analysis of
22 competing hypothesis and just for the overall
23 completeness of fire.

24 So whenever you have a fire going, whether the
25 fire is between an exterior wall, inside or outside, or

1 even in the interior walls between different rooms, you
2 have to evaluate which way it was moving.

3 BY MR. LaFLAMME:

4 Q. Okay. As a municipal investigator, you would
5 have wanted to look into the smoking shed further once
6 provided that information; correct?

7 MR. AYALA: Form.

8 THE WITNESS: I would have wanted to consider
9 it as an alternative hypothesis, which is what I did in
10 this case.

11 BY MR. LaFLAMME:

12 Q. Okay. But I'm talking about Detective Sheaman
13 in this case.

14 If you were in the place of Detective Sheaman,
15 you would want to consider the potential hypothesis of
16 the fire starting at the smoking shed; correct?

17 MR. AYALA: Form.

18 THE WITNESS: I would think he would want to do
19 that, depending upon how certain he was of his
20 determination of the progression and development between
21 the exterior of the house and the interior of the house,
22 and I don't know that I have a full comprehension of how
23 certain he was of that.

24 BY MR. LaFLAMME:

25 Q. Okay. This was the first time you heard that

1 interview with Mr. Wadsworth; correct?

2 A. I believe so, yes.

3 Q. Did you ever ask counsel for the Wadsworth
4 family for all of the body camera footage that was
5 available?

6 A. I made a deduction that I had it because the
7 sheriff's department and the County of Sweetwater had
8 indicated to me that they had provided everything that
9 they had.

10 Q. Okay.

11 A. So I had a couple interactions with their
12 Freedom of Information officer.

13 Q. But now you understand you did not get
14 everything?

15 A. I understand that now, yes.

16 Q. And you do not -- you are not aware of the
17 statements Mr. Pasborg would have made on the body
18 camera footage of Ms. Merrill; correct?

19 A. Correct. I don't recall that.

20 Q. And going back to the prior body camera footage
21 of Ms. Merrill which is the "Fire;_1620_HWY_374-2 video
22 at 12:50 -- I'm trying to make it louder for you so
23 starting at 12:45.

24 (Video played.)

25 ///

1 BY MR. LaFLAMME:

2 Q. Okay. You heard Pasborg indicate that it
3 looked like the fire started on the outside or at the
4 exterior wall?

5 A. I did.

6 Q. Okay.

7 (Video played.)

8 BY MR. LaFLAMME:

9 Q. And that was statements from Mr. Pasborg and
10 Detective Merrill from 12:50 to about 13:15.

11 You had not heard those before; correct?

12 A. I have not.

13 Q. All right. Based on your investigation, you
14 indicated that you were involved in assessing the
15 propagation of the fire; correct?

16 A. Correct.

17 Q. Okay. So under your theory, we have a fire
18 that starts at the hoverboard?

19 A. Correct.

20 Q. Where does it go next?

21 A. I can show you with photographs its progression
22 from that location in the bedroom primarily to begin
23 with. It then vents itself out that bedroom window and
24 then enters the main bedroom hallway of the house and
25 makes its way through the house.

1 And so what I've done is I've selected the
2 photographs that show that progression throughout the
3 house.

4 Q. Okay. You're talking about the photographs
5 that you provided which we've marked as Exhibit 97?

6 A. Correct.

7 Q. Okay. Why don't you pull those out then.

8 Mike, if you need a break at any time --

9 (Discussion held off the record.)

10 BY MR. LaFLAMME:

11 Q. All right. So we have the fire under
12 plaintiffs' theory initiating at the hoverboard, and you
13 said you pulled out photographs from Exhibit 97 which
14 show the fire progression.

15 A. Right. Do you want me to start with the
16 patterns that are in Bedroom No. 4?

17 Q. I would like you to start from when the fire
18 initiates and to where it goes.

19 A. Okay. So I'm going to go -- I'm not going to
20 do these photographs in order. That's what I'm
21 representing to you.

22 Q. Okay.

23 A. So I think we can start at Photograph 143.

24 Q. Okay.

25 A. And just for the record, these photograph

1 numbers match how they are in my case file in a file
2 marked "MJS AA photographs."

3 Q. Okay. So these photographs would have been
4 taken at the May 2022 inspection?

5 A. Correct.

6 Q. All right. Are all of the photographs in this
7 packet from your May 2022 inspection?

8 A. They are.

9 Q. Okay.

10 A. So looking at Photograph 143, I'm trying to
11 think, we use the cardinal direction as being north,
12 this way (indicating).

13 So this is a photograph of the west wall of
14 Bedroom No. 4, and the pattern that is manifested along
15 that wall and particularly the damage to the vertical
16 wood wall studs is what we call a manifestation of a
17 truncated cone pattern.

18 So it tells us that the fire plume is in its
19 third stage of progression, or its conical state, and
20 the interpretation of the way the wall studs are
21 damaged, their heights, the distribution of the greater
22 area of charring, greater heat treatment, greater
23 consumption shows us that the progression and spread in
24 this photograph was from the door frame and moving right
25 to left in the photograph or north to south along that

1 wall.

2 Q. Okay.

3 A. And it's also telling us that the fire plume
4 from which this pattern was created is located somewhere
5 to the right of this photograph.

6 Q. Do you consider the -- you don't believe that
7 what we are looking at for a fire pattern on Photo 143
8 is a "V" pattern; correct?

9 A. It's one-half of a "V" pattern, yes.

10 Q. Okay. You believe it's a "V" pattern?

11 A. Yes. So the truncated cone is the
12 three-dimensional representation of the fire plume, and
13 this is one side of that developing fire plume which
14 what most people would refer to it's one-half of a "V"
15 pattern.

16 Q. Okay.

17 A. Remembering that your "V" patterns are
18 representing the fire plume more in two dimensions as
19 opposed to three dimensions, we'll see some of that.

20 Q. So what does this tell us as far as the fire
21 propagation?

22 A. Across that wall it's from right to left in the
23 photograph, or north to south on that segment of wall.

24 Q. All right. So coming through the door area?

25 A. Not coming through. It's just the direction

1 across that wall.

2 Q. Okay.

3 A. We're not indicating that the -- this vector
4 does not indicate that the fire is coming from the
5 hallway into the bedroom because the -- well, the other
6 patterns will show that the fire goes from this bedroom
7 into the hallway.

8 You can start to see that, although it's like
9 in this photograph, you can start to see this by the
10 damage across from the bedroom hallway there, and what
11 you're looking at is the consumption of that bathroom
12 wall.

13 The bathroom is directly across the hall and
14 the fire has penetrated that wall directly across from
15 this doorway.

16 So at some point in the fire, this fire has
17 vented out Bedroom 4's door, and the first thing it
18 really impacted in the hallway was the wall and the
19 bathroom across the hallway.

20 Q. So this fire pattern is developed by venting
21 through the door?

22 A. No. It's developed by a developing fire plume
23 within the bedroom. This fire --

24 Q. Do you know where the whole house fan was
25 located?

1 MR. AYALA: Wait, wait, wait.

2 THE WITNESS: Okay. Sorry.

3 MR. AYALA: Finish your answer before the next
4 question, please.

5 MR. LaFLAMME: He had, but you can make a
6 statement.

7 Q. Go ahead.

8 A. This fire pattern is not indicating the
9 movement of the fire through that doorway. It's only
10 representing the movement of the fire along that wall on
11 the interior surface.

12 Q. Okay. Do you know where the whole house fan
13 was located?

14 A. In the hallway.

15 Q. Where in the hallway?

16 A. Outside this bedroom.

17 Q. And that would have provided a ventilation
18 avenue for the fire into the attic space; correct?

19 A. If it was operating, yes.

20 Q. It's still a space into the attic; correct?

21 A. It's an opening into the attic, yes.

22 Q. So regardless as to whether it was operating or
23 not, it's an opening into the attic that would provide a
24 path for the flame to travel into the attic area and
25 obtain further oxygen; correct?

1 A. Flame or smoke.

2 Q. So you agree?

3 A. I agree.

4 Q. All right.

5 Okay. So my question was, from a fire
6 propagation perspective, the fire starts at the
7 hoverboard. Where does the fire go next?

8 A. Okay. Well, I'm showing the series of pictures
9 in the bedroom to show you.

10 So the hoverboard would be located just to the
11 right of Photograph 143. So it's moving away from the
12 area of the hoverboard.

13 Photograph 144, the next photograph, is giving
14 us a better view of that west wall, and we're seeing the
15 same indications of the progression of the fire from
16 right to left or north to south. So I'm just showing
17 you that it continues all the way down that wall.

18 And right now I'm focusing on the interior side
19 of that bedroom wall. I've got photographs that show
20 what it did on the exterior which you can kind of see
21 from this photograph which way it's moving.

22 Q. So on Photograph 144, are we able to see where
23 the hoverboard was located?

24 A. The hoverboard is to the right of
25 Photograph 144. So no, you can't picture the location

1 in this photograph.

2 Q. Okay. The hoverboard would have been on the
3 wall that we are looking at where you have these arrows
4 drawn -- correct? -- or against the wall?

5 A. No. It's against the intersecting
6 perpendicular wall to the right of this photograph.

7 Q. Okay. Maybe I'm not sure where this photograph
8 is taken then.

9 A. Yeah. So let me point out a diagram just real
10 quick. We can cut down on a number of questions, I
11 think.

12 So the wall that's pictured on this photograph
13 is this wall right here (indicating).

14 Q. On 144 as well?

15 A. Yes, both.

16 Q. Okay. So you're just further down the hallway
17 then on 144?

18 A. I'm further into the bedroom.

19 MR. AYALA: Do you mind if he indicates on the
20 record what he just pointed to on Exhibit -- what was
21 that -- 98? -- what wall you're referring to?

22 THE WITNESS: So on Exhibit 98, on Page 4, I
23 was pointing to the interior surface of the west wall
24 for grids A2 and A3.

25 MR. AYALA: Okay.

1 THE WITNESS: So I'm not focusing on any
2 patterns that are out in the hallway. I'm just focusing
3 on the patterns that are inside the bedroom.

4 BY MR. LaFLAMME:

5 Q. No, I understand that.

6 A. Okay.

7 Q. This is the wall, the party wall between the
8 hallway and the bedroom, though?

9 A. Exactly.

10 Q. Okay.

11 A. So there's multiple lines of demarcation
12 indicated there just showing that the plume continued
13 from the north -- from the north side of the bedroom
14 moving to the south side of the bedroom.

15 Photograph 147, I just want to make sure you
16 have your orientation because we're now looking at this
17 segment of wall (indicating).

18 Q. Okay. So we are basically working
19 counterclockwise as if around this bedroom if you were
20 looking at the doorway?

21 A. Exactly. And the patterns on the interior
22 surface of that short section of the west wall there
23 we're seeing the same direction that the fire plume, and
24 the fire is moving from north to south along that
25 smaller section of wall.

1 And then when we look at the south wall of
2 Bedroom No. 4, we have what is referred to as a
3 "U" pattern on that wall. That's an indication that the
4 heat is moving all the way across the room from the fire
5 plume on the opposite side of the room and moving
6 towards that south wall.

7 So that "U" shape comes from -- is a part of
8 the three-dimensional manifestation of a fire plume
9 that's in its conical phase of development, fully
10 developed.

11 Q. Okay.

12 A. So everything is pointing back to the other
13 side of the room.

14 Photograph 153, you can see the window to the
15 right of the photograph. So we're looking at the
16 segment of the east wall of Bedroom No. 4 between the
17 window and the closet located to the north there, and
18 the fire patterns indicate that the fire is moving from
19 the closet across that wall segment towards the window.

20 Q. What in this photograph is indicating that to
21 you?

22 A. It is the amount of damage to the vertical wood
23 wall studs as you compare them, and then the angular
24 nature of the damage to the interior of the wall studs
25 underneath.

1 Now, some of these are clear if you look at the
2 actual photograph. So when I print these, I lose a
3 little detail from it because of the printer, but you
4 can also look at the distribution of the damage on the
5 interior surfaces of the vertical wood wall studs, and
6 there are lines of demarcation which indicate that the
7 fire is coming from the closet towards the window in
8 that section of that wall.

9 Q. This is an exterior wall; correct?

10 A. It is.

11 Q. And we had insulation, batt insulation in
12 between the wall studs?

13 A. Correct.

14 Q. And batt insulation would provide protection to
15 the wall studs; correct?

16 MR. AYALA: Form.

17 THE WITNESS: Yes -- well, no, it's not the
18 batt insulation. It's the wall covering that would
19 provide that.

20 Well, I guess I'll agree with you. The batt
21 insulation will provide insulation to the sides of the
22 wall studs, but not to the surfaces facing the room.

23 BY MR. LaFLAMME:

24 Q. So when we are looking at the -- how you can
25 see the front of the wall studs are charred, whereas the

1 sides are not, that's because it's protected from the
2 batt insulation; correct?

3 A. Correct.

4 Q. So the fact that these wall studs are less
5 charred than other wall studs, that's a result of the
6 batt insulation within them?

7 A. Yeah, I'm not comparing the -- I'm not
8 necessarily comparing just the sides of the wall studs.
9 I'm also looking at the surface of the wall stud that
10 faces the interior of this room.

11 Q. Okay. That's fine that you may not be, put
12 some others may have made those types of statements.

13 MR. AYALA: Form.

14 BY MR. LaFLAMME:

15 Q. So looking at the lack of char on the side of
16 these studs, that's due to the presence of batt
17 insulation in that area; correct?

18 MR. AYALA: Form.

19 THE WITNESS: Yes, because the pattern we're
20 seeing there is a protected area.

21 BY MR. LaFLAMME:

22 Q. Correct. So that's not an unexpected protected
23 area due to the presence of batt insulation?

24 A. Not unexpected to me, no.

25 Q. All right. Go ahead -- actually, take a step

1 back.

2 From Photo 153, so you said you are more
3 looking at the fire patterns on the front part of the
4 studs?

5 A. Correct, and the degree of damage.

6 Q. Okay. So were you doing a depth of char
7 analysis there, or what was --

8 A. That's what I'm doing, but you're able to do it
9 visually because it's visually observable.

10 Q. And wouldn't the depth of char be limited by
11 the placement of the batt insulation in between the
12 studs?

13 A. The depth of char on the sides of the vertical
14 wood wall studs would be protected by that, yes, but as
15 you look at the narrow surface of these vertical wood
16 wall studs as they face the interior of Bedroom No. 1,
17 you can see that the damage is greater closer to the
18 closet and becomes less and less as you move away from
19 the closet towards the window, and that's an indication
20 that the fire is moving from the area of the closet
21 towards the window depicted in the photograph.

22 Q. Okay.

23 A. Okay. Photograph 154, I'm really focusing on
24 the interior of the closet that's in that corner of the
25 room on the northeast corner of Bedroom No. 4.

1 I'm making two observations, and I've got
2 another picture that shows the other side of the wall on
3 the opposite side of this closet taken from the kitchen
4 side, and when you compare those two, we know that the
5 fire progressed through that wall from Bedroom No. 4's
6 closet into the kitchen. That's the way that it burned
7 through that wall.

8 Let me just find the opposite picture because
9 it's probably better to look at them in comparison.

10 If you look at Photograph 104, that's that same
11 wall taken from the kitchen side.

12 Q. Okay. So looking at Photographs 104 and 154?

13 A. Correct.

14 Q. Okay. So that's just an indication that the
15 fire moved from Bedroom 4 into the kitchen?

16 A. Correct.

17 Q. You would have a similar situation if the fire
18 started externally, entered the Bedroom 4 through the
19 window and the first inside portion of the house that
20 was on fire was within Bedroom 4.

21 You would still have that same pattern;
22 correct?

23 A. Correct, because it's only telling us the
24 progression development between Bedroom 4 and the
25 kitchen.

1 Q. So Photo 104 and 154 are just telling us that
2 the fire moved from Bedroom 4 into the kitchen?

3 MR. AYALA: Form.

4 THE WITNESS: Correct, except there's more on
5 Photograph 154. That's one thing. That's what the text
6 box -- I'm trying to indicate by the text box.

7 But when you look at the header over the closet
8 represented with the arrow, we can see that the degree
9 of charring is greatest closest to the left side opening
10 of the closet and decreases the closer you get to the
11 east wall of Bedroom No. 4, and that is showing us the
12 development of the fire is moving from left to right or
13 west to east across the top of that header on top of the
14 closet, and that's moving away from the area of origin
15 that we'll get to, my identified area of origin.

16 BY MR. LaFLAMME:

17 Q. Okay. So you have an arrow on 154 going across
18 the header of the closet?

19 A. Correct.

20 Q. And that arrow was going towards the exterior
21 wall?

22 A. Correct.

23 Q. All right. So it's your belief that the fire
24 traveled from, looking at the closet, the left side to
25 the right side of the closet?

1 A. Across that header, yes.

2 Q. Okay.

3 A. So in all my photographs, I probably should
4 have said at the beginning, I'm putting the arrowhead to
5 indicate the movement of the heat and the fire and the
6 development of the plume.

7 Q. Okay.

8 A. And then from this photograph you'll see that
9 to the left, and we'll come to a better photograph, we
10 can see the back of the refrigerator visible through the
11 burned wall there.

12 Q. So you're looking at the left, lower left
13 corner of Photo 154?

14 A. Correct. And what you're seeing there is that
15 the north bedroom wall has all the way burned through
16 and we're seeing the back of the refrigerator there.

17 Q. And that's generally where the hoverboard was
18 located?

19 A. Directly below it, yeah. I've got a close-up
20 photo for us.

21 Q. Okay.

22 A. So Photograph 155 is that section of wall
23 between the closet opening and the hallway door.

24 So we're again in the center of that photograph
25 is the back of the refrigerator which is exposed because

1 the fire has burned through it from Bedroom 4 moving
2 towards the kitchen and that is a -- that pattern is
3 what's commonly referred to as a flame zone pattern
4 usually centered in the center of the fire plume.

5 Some people refer to it as the -- some techs
6 refer to it as the fire zone.

7 Q. Okay.

8 A. And it's indicating that that's an area that
9 continued to burn and stay hot enough.

10 So other people would refer to the back of the
11 refrigerator, now exposed, as exhibiting a clean burn
12 area, meaning that it remained hot enough throughout the
13 duration of the fire that the soot couldn't condense on
14 it.

15 Q. And we can see some wiring in that area;
16 correct?

17 A. Correct. That's a branch circuit that comes
18 down from the attic area, and at the bottom, and I've
19 got a better picture to see it, at the very bottom
20 you'll see that is running to the outlet which faced the
21 bedroom.

22 Q. So we have -- and I think you can see the
23 electrical box --

24 A. Yes.

25 Q. -- just above the compressor area for the

1 refrigerator; correct?

2 A. Correct, directly above that vent in the back
3 of the refrigerator.

4 Q. Okay. And that would have been directly above
5 where the hoverboard was located?

6 A. Correct.

7 Q. And the wiring insulation is burned off of
8 those electrical wires; correct?

9 A. On the lower portions of it, yes.

10 Q. All right.

11 A. And I'm going to show you, we'll see a close-up
12 of this box.

13 Q. Okay.

14 A. Now I'm looking at the same wall. So to the
15 right you can see the area where we were just looking
16 at, and there are a number of lines of demarcation on
17 this wall, and I placed the arrows directly below the
18 angular lines that are lower on the righthand side,
19 taller on the lefthand side, and there's multiple ones
20 on this wall, but there were three predominant ones that
21 I was able to see all saying the same thing, that the
22 fire plume was developing. So we're seeing again, we're
23 kind of seeing half of a "V" pattern.

24 Now, we don't see other half on the other side
25 of where the refrigerator is because there was an open

1 closet. So there wasn't a mating surface for that to
2 manifest, but all of the lines of demarcation and
3 distribution of damage to the wall there show that the
4 fire is moving from right to left in this picture or
5 east to west across the north wall, and your reference
6 is where the back of the refrigerator is exposed there.

7 Q. So in Photo 156 we can still see the wall studs
8 are intact; correct?

9 A. We can.

10 Q. Okay.

11 A. And we have another indication, but the exposed
12 refrigerator says that the fire is coming from Bedroom 4
13 into the kitchen, and I don't think that's disputed in
14 this case that I'm aware of.

15 Q. Okay. So in looking at Photograph 156, you
16 believe that that damage is half of a "V" pattern?

17 A. It could be referred to that, yeah. There are
18 lanes of demarcation that's showing which way.

19 So as the fire plume develops, it gets bigger
20 and bigger and bigger, it leaves its signature, and we
21 have multiple lines of demarcation on that wall, all of
22 which are parallel to one another and they're indicative
23 of a fire plume developing from the area at the base of
24 the back of the refrigerator on the bedroom side.

25 Q. So the initiating fire plume, under your

1 theory, would have developed basically by the grate on
2 the backside of the refrigerator?

3 A. From that origin, yes.

4 Q. Okay. So this area would have been the first
5 area affected by the fire?

6 A. One of the first areas.

7 Q. Okay. And here we still have the wall studs
8 intact; correct?

9 A. Correct.

10 Q. So there is no consumption of the wall studs
11 similar to what you saw on the party wall with the
12 hallway?

13 A. Correct. Now, we can look at pictures in
14 the -- when we look at the pictures taken from the
15 hallway side of the party wall, we know -- I can show
16 you why those wall studs aren't consumed, because they
17 are being affected by both sides of the wall from the
18 fire progressing initially in Bedroom No. 4 and then
19 later as the fire progressed down the hallway.

20 Q. And you can also see that the wood panelling
21 between Bedroom 4 and the kitchen, at least on the
22 kitchen side, is not consumed completely on 156?

23 A. That's correct. And the reason for that is on
24 the opposite -- on the kitchen side of this wall is the
25 refrigerator and then to the left of it in Picture 156

1 is cabinetry.

2 So there is a large mass on the opposite side
3 of that wall and that mass is able to absorb heat energy
4 and, therefore, the wall does not get consumed because
5 the heat energy being imparted by conduction through the
6 wall is absorbed by the mass on the opposite side of the
7 wall, and you don't have that in the hallway. In the
8 hallway, it's just panelling on both sides of the 2 x 4
9 stud.

10 Q. Okay.

11 A. Okay. I'm going in order here.

12 So Photograph 159, here I was just labeling the
13 three sources of ignition that are located in the area
14 of origin. I'm going to show you some more patterns in
15 the bedroom.

16 As I talked about earlier, we've got the
17 refrigerator, the back of the refrigerator, and there's
18 an electrical outlet on the kitchen side of this wall
19 that the refrigerator was plugged into, and I've circled
20 that electrical outlet.

21 That's the electrical outlet serving the
22 bedroom or facing the bedroom side, and just on the
23 other side here is an outlet that's on the kitchen side
24 of the wall that it appears the refrigerator was plugged
25 into, and that's the box that Detective Sheaman focused

1 on with the wire coming out. That's not -- that wasn't
2 on the bedroom side of the wall. That's on the kitchen
3 side of the wall.

4 Q. Okay.

5 A. And I have a separate set of two pages of notes
6 where I showed those two photographs because I was
7 trying to decide, figure out what he was talking about,
8 and I figured it out.

9 Q. I was as well at one point.

10 A. Okay, yeah. And then the oval at the bottom of
11 this represents that the hoverboard is also located
12 there.

13 Q. So you would agree that the outlet that was on
14 the bedroom side, there is no wiring coming from that
15 outlet; correct?

16 A. No wire protruding from that.

17 Q. Okay. The wiring that is protruding from an
18 outlet in that area is the upper outlet that serviced
19 the refrigerator?

20 A. Correct.

21 Q. So Detective Sheaman in his analysis when he
22 indicated that there was wiring from that outlet into
23 Bedroom No. 4 was incorrect?

24 A. That's incorrect.

25 And I think I called that set of notes

1 something like Sheaman's observations of the outlets,
2 but yes, it's in the case notes folder and it's entitled
3 "Sheriffs Detective Sheaman Outlet Observations."

4 Q. Since I have it here, why don't we mark it and
5 we'll knock that one out.

6 A. Okay.

7 Q. I'll hand you what's been marked as Exhibit 99,
8 and this is from your expert file; correct?

9 A. Correct.

10 (The aforementioned document was
11 marked as Exhibit 99 for identification
12 and is attached hereto.)

13 BY MR. LaFLAMME:

14 Q. Okay. And there was an indication from
15 Detective Sheaman's report that there was wiring coming
16 out of an outlet in Bedroom 4; correct?

17 A. Both his report and as well in his discovery
18 deposition.

19 Q. And he had attributed that potentially to the
20 hoverboard being plugged in; correct?

21 A. Correct.

22 Q. Okay. Based on your analysis, it sounds like
23 you disagree with that; correct?

24 A. I totally disagree with that.

25 Q. All right. That the wiring that was in the

1 receptacle that Detective Sheaman identified was wiring
2 that went to the refrigerator?

3 A. Correct.

4 Q. Okay. And that wiring was in the receptacle
5 that would have been facing the kitchen?

6 A. Correct, so it started on the opposite side of
7 this wall.

8 Q. And the receptacle that was in Bedroom
9 No. 4 doesn't have any wiring protruding from it?

10 A. Correct. And that's depicted on Page 2 of
11 Exhibit 99 and represented by my Photograph 160.

12 Q. All right. Back to your annotations here.

13 A. Okay.

14 Q. So we're on Photo 159 of Exhibit 97.

15 A. Correct. So I'm indicating the circles and the
16 ovals are indicating the potential sources of ignition
17 that are located within the area of origin.

18 And then in the top third quadrant there's
19 damage to -- there's burning of this little section of
20 horizontal 2 x 4 which indicates that the burning is
21 moving from left to right on that little short section.
22 It's about four, six inches long.

23 Q. Okay. So you have three circles here. One is
24 the area of the hoverboard?

25 A. The lower oval at the bottom is the hoverboard.

1 The next circle would be the outlet, and at the time, I
2 was identifying and we had to address if there was
3 anything plugged in there, and then the big circle is to
4 represent the refrigerator and its electrical.

5 Q. Okay.

6 A. And then we do have this move pattern, that the
7 pattern is moving from the center of this pattern and
8 moving from left to right, or west on to east.

9 Okay. Photograph 166 is I'm looking at the
10 damage to the ceiling joists that run east and west over
11 the bedroom, and when you look at the degree of damage
12 to them and consumption, and so forth, and you compare
13 them as you move across the room, the flame plume --
14 the fire plume is moving from left to right in
15 Photograph 166 which would be from north to south across
16 the bedroom ceiling.

17 So we're seeing another component of that
18 developing fire plume coming from the area of the
19 hoverboard and moving across the bedroom.

20 Here I'm just looking at the ceiling joists.
21 We're going to look at some other objects in the bedroom
22 that shows the same thing.

23 And the next photograph -- sorry.

24 Q. I'm sorry. Was the ceiling, was that drywall
25 or was that wood panel as well?

1 A. I have to go back to the construction notes. I
2 think it was all light combustibles.

3 Q. The wall framing covering was wood panelling;
4 correct?

5 A. Yes, and thermally thin wood panelling. The
6 type, I don't think you can even purchase any more.

7 Then Photograph 167 is I'm looking not only
8 again at the ceiling joists, looking further to the
9 south in the bedroom, and I'm seeing the same
10 continuation of that pattern. It's moving across the
11 bedroom ceiling from the north wall to the south wall.

12 And then there's some more pictures in the
13 bedroom I've got to find for you.

14 Q. Okay.

15 A. I thought I had them all together, but
16 apparently not.

17 You know, let's go back to Photograph 147 which
18 is back in the bedroom.

19 So on Photograph 147 out of Exhibit 97, I
20 talked about the pattern on that little short section of
21 wall. I talked about the presence of the U-turn on the
22 south wall of Bedroom 4.

23 I also looked at the damage to the bunk bed
24 framing, and the biggest consumption of the bunk beds
25 occurred on the north end, and as you move from north to

1 south or towards from the foot to the head of the
2 bunk bed framing, the damage became less and less,
3 indicating a progression that the bunk bed was burned --
4 the progression of the fire was from the foot of the
5 bunk bed towards the head of the bunk bed.

6 Q. The foot of the bunk bed was towards the
7 kitchen?

8 A. The foot of the bunk bed was facing the
9 kitchen. Yes, it was facing the south.

10 Q. Okay.

11 A. The head of the bunk board is facing -- no,
12 that's wrong.

13 Q. The head of the bunk board was against the
14 party wall between the master bedroom and the bedroom;
15 correct?

16 A. Correct. So that would be the south side. The
17 foot of the bed was facing south or towards the kitchen.

18 Q. And I'm only trying to use room orientations
19 because the north/south, east/west is a little askew on
20 this property.

21 A. I know, yeah. And so when I'm using my
22 directions, I'm sticking to the -- I'm sticking to the
23 diagrams in Exhibit 98.

24 Q. Yeah. Just to make sure we're communicating
25 here, looking at Exhibit 97, the head of the bed is

1 adjacent to Bedroom 1?

2 A. Correct.

3 Q. Okay. All right.

4 A. And then at the foot of the bed or on the north
5 side of the bed closer to the kitchen is where that
6 little nightstand table was, and it was almost
7 completely consumed. There was very little of the
8 framing left.

9 Q. Is that shown in Photograph 147 or is that
10 further to the left --

11 A. No, it's further to --

12 THE REPORTER: I need you to wait until he's
13 done.

14 THE WITNESS: Yeah, I'm sorry.

15 (The record was read by the
16 reporter as follows:

17 "Question: Is that shown in
18 Photograph 147 or is that further --")

19 BY MR. LaFLAMME:

20 Q. -- further to the left on this photo?

21 A. It's further to the left or further to the
22 bottom, however we want to look at this photograph.

23 Q. Okay.

24 A. See, I didn't give you my warning at the start,
25 no court reporter in 42 years has failed to yell at me

1 for talking too fast.

2 Q. All right. Any other pictures you want to show
3 me from Bedroom 4?

4 A. No. All these other photos then will take us
5 from when the fire moves out into the hallway, the
6 bedroom hallway, and how it moved in other directions.

7 I don't know if you're interested because I
8 don't know if that's that disputed. It's up to you.

9 Q. We'll talk about it just for completeness, but
10 I wanted to get through Bedroom 4.

11 A. Okay.

12 MR. LaFLAMME: Do you want to take a break?

13 THE REPORTER: Sure.

14 MR. LaFLAMME: It's a good breaking point if we
15 want to.

16 (A recess was taken from 11:24 a.m.
17 to 11:34 a.m.)

18 BY MR. LaFLAMME:

19 Q. So we talked about the fire propagation within
20 Bedroom 4 and you used a number of photographs with
21 Exhibit 97; correct?

22 A. Correct.

23 Q. Okay. When the window broke, when in that
24 process do you believe that occurred, the bedroom window
25 for Bedroom 4?

1 A. It occurs before Gunner, at or when Gunner is
2 leaving the room.

3 Remember, Layne is already out, and he's in the
4 hallway when Gunner wakes up, and Gunner is the one that
5 says, "I see the fire coming along the floor and towards
6 the window," and he seems to recall glass. So it's very
7 early.

8 Q. When Gunner wakes up, though, the window has
9 already been broken; correct?

10 MR. AYALA: Form.

11 THE WITNESS: There's certainly a fracture of
12 the window.

13 BY MR. LaFLAMME:

14 Q. Okay.

15 A. He doesn't describe anything to me that
16 indicates that the fire has fully breached it and is
17 fully venting out the window.

18 Q. What temperature does the glass need to get to
19 break?

20 A. It depends on the type of glass, the thickness
21 of the glass.

22 Q. What's the range?

23 A. I would have to go to charts. I don't have
24 that memorized.

25 Q. Is it in the range of 250 degrees Fahrenheit?

1 MR. AYALA: Form.

2 THE WITNESS: Yes, I would accept that.

3 BY MR. LaFLAMME:

4 Q. And the window is right next to Gunner;
5 correct?

6 A. Correct.

7 Q. Okay. So in order for the window to start to
8 break, you need approximately 250 degrees Fahrenheit at
9 that window; correct?

10 A. Somewhere in the window, yes.

11 Q. And 250 degrees Fahrenheit is a level in which
12 an individual would receive burns?

13 A. Correct. So it's any temperature at the skin
14 or the target greater than 100 degrees Fahrenheit.

15 Q. And you're aware that Gunner was not burned in
16 this case; correct?

17 A. Correct.

18 Q. And Layne was not burned at all in this case;
19 correct?

20 A. Correct.

21 Q. How do you explain how the boys were able to
22 escape uninjured if a fire started at the hoverboard and
23 still cracked the window before they escaped?

24 A. It indicates to me that although the window may
25 have cracked, there was no ventilation of the fire out

1 to the outside.

2 It's also counter indicative that the fire came
3 from the outside and coming in because of those
4 temperatures. He couldn't have been there.

5 Q. Did you do any fire modeling in this case?

6 A. I did not.

7 Q. You're aware the fire modeling is an accepted
8 practice under NFPA 921 in helping to determine the
9 origin?

10 A. It's generally not held to determine the
11 origin. It can be used to evaluate your opinions, some
12 of which may be the origin.

13 Q. Once this fire initiates, you're going to get
14 products of combustion within that room; correct?

15 A. Correct.

16 Q. Have you done any analysis to determine what
17 level of products of combustion would have reached when
18 the boys woke up?

19 A. No.

20 Q. Are you aware of the fire modeling softwares
21 that are available?

22 A. Generally, yes.

23 Q. Have you ever done fire modeling?

24 A. In years past, yeah.

25 The models have become so complicated, unless

1 you're using them on a regular basis, I just chose to
2 stop doing it.

3 Q. Okay.

4 A. In fact, I used to teach mathematical peer fire
5 modeling for the NFPA.

6 Q. Why didn't you do any fire modeling in this
7 case?

8 A. I didn't see any reason that it was
9 necessary --

10 Q. Okay.

11 A. -- for my role in this case.

12 Q. But you can't state what the products, the
13 level of the products of combustion, meaning carbon
14 monoxide and other products of combustion would be when
15 the boys woke up; correct?

16 A. I cannot, no.

17 Q. And when the boys woke up, where was the fire?

18 A. They describe it as floor level near the area
19 of the hoverboard and moving along the area of the
20 closet and towards the window.

21 Q. Well, you heard on the body camera statements
22 that the -- they saw fire outside; correct?

23 MR. AYALA: Form.

24 THE WITNESS: That was their statement at the
25 time they made those statements, yes.

1 BY MR. LaFLAMME:

2 Q. Okay. When Gunner wakes up, he said in the
3 interview with Detective Sheaman that the window was
4 gone; correct?

5 A. I believe he said that, yes.

6 Q. And that Gunner remembers seeing fire behind
7 him when he woke up; correct?

8 A. Correct.

9 Q. And fire behind him would be at the window
10 side; correct?

11 A. Correct.

12 Q. And Detective Sheaman asked, "When you guys saw
13 the fire, where was the fire in the room?"

14 Gunner responded, "It was by the window."

15 "Gunner, there was no window when I woke up."

16 Do you recall those statements?

17 A. I do.

18 Q. So when Gunner woke up, there was no window;
19 correct?

20 MR. AYALA: Form.

21 THE WITNESS: No, I don't think you could draw
22 the conclusion that this child when he's making these
23 statements has any comprehension of what the condition
24 of the window or the fire was. If --

25 ///

1 BY MR. LaFLAMME:

2 Q. Okay. You agree that Gunner and Layne are
3 indicating --

4 MR. AYALA: Well, were you done with your
5 answer?

6 THE WITNESS: Yeah. For example, if we make
7 the assumption that the window is broken out and that
8 the fire is on the outside and it's breaching into the
9 bedroom, then I would ask the same question, "Why aren't
10 they burned?"

11 BY MR. LaFLAMME:

12 Q. You agree that Gunner and Layne indicated that
13 the fire was at the window when they woke up; correct?

14 MR. AYALA: Form.

15 THE WITNESS: In their statements to the
16 detective at the time of the event, yes.

17 BY MR. LaFLAMME:

18 Q. Okay. And the statements that you heard in the
19 body camera footage immediately after the fire, Kamille
20 and Gunner also indicated that the fire was outside;
21 correct?

22 MR. AYALA: Form.

23 THE WITNESS: They're making that -- yes.
24 They're making that statement, yes.

25 ///

1 BY MR. LaFLAMME:

2 Q. If the fire had started at the hoverboard, and
3 using your Exhibit 97 photos, the house wiring still
4 would have been energized; correct?

5 A. Correct.

6 Q. And immediately above the hoverboard was an
7 outlet; correct?

8 A. Correct.

9 Q. And that outlet was heavily fire damaged and
10 heat damaged?

11 A. Correct.

12 Q. And the wire insulation was off on the wiring;
13 correct?

14 A. Yeah. By the time the fire is extinguished,
15 yes.

16 Q. If the fire started at the hoverboard in that
17 area, you would expect to see arcing on that wiring;
18 correct?

19 MR. AYALA: Form.

20 THE WITNESS: I don't know that I can say I
21 would expect to see arcing. It depends on how much heat
22 energy the wiring actually saw --

23 THE REPORTER: I'm sorry. "It depends on how
24 much heat energy the wiring actually saw --"

25 THE WITNESS: -- the wiring saw protected

1 inside the wall.

2 BY MR. LaFLAMME:

3 Q. Well, this is wood panelling covering; correct?

4 A. Correct.

5 Q. Combustible covering?

6 A. It is.

7 Q. There is no fire rating to wood panelling
8 covering; correct?

9 A. There is not.

10 Q. So unlike drywall where it would have some
11 protection, it does not have protection from the wood
12 panelling covering; correct?

13 A. Correct. Well, it has far less protection.

14 Q. The fire is going to breach that wood panelling
15 fairly quickly?

16 A. Compared to drywall, yes.

17 Q. How quickly does the fire breach the wood
18 panelling immediately above the hoverboard?

19 A. I don't have an estimation of that.

20 Q. The fire would breach the wood panelling before
21 the fire breaches the window; correct?

22 A. I don't know that I can say that with any
23 certainty.

24 Q. Okay. You agree that there is no arcing
25 anywhere in Bedroom 4; correct?

1 A. I'm not aware of any arcing.

2 Q. And the circuit breaker for Bedroom 4 also did
3 not trip at all?

4 A. Correct.

5 Q. So for the entire time in which the fire, under
6 your theory, is moving through Bedroom 4, the house
7 wiring is energized -- or let me take a step back.
8 That's a poor question.

9 For the early stages of the fire when it is
10 moving through Bedroom 4, under your theory, until the
11 window is breached and it is venting out the window, the
12 house wiring is energized?

13 A. Correct. It will remain energized until the
14 service entrance conductor is damaged.

15 Q. Okay. And under your theory, the only way the
16 service -- electrical service would be damaged is once
17 that fire breaches the window?

18 A. Correct.

19 Q. Okay. And then it is either damaged through
20 the fire venting through the window or through an
21 ignition of the shed outside?

22 A. It could be heat energy from either one of
23 those or a combination thereof, yes.

24 Q. Okay. And how long does it take the fire to
25 move from the hoverboard to venting out the window?

1 A. I don't have an estimate of that.

2 Q. Can you give me an estimate in just a range?

3 A. I don't even know how I would give you a range.

4 Q. Is it seconds or minutes?

5 MR. AYALA: Form.

6 THE WITNESS: It's more than seconds.

7 BY MR. LaFLAMME:

8 Q. Okay. Is it more than one minute?

9 A. I don't have an estimate for you; so I won't
10 play this couching game.

11 Q. You can't give any estimate at all?

12 A. I don't have any basis on which to give that
13 estimate, no.

14 Q. You could get an estimate on that through a
15 fire model process; correct?

16 MR. AYALA: Form.

17 THE WITNESS: You would get some information to
18 make that analysis.

19 BY MR. LaFLAMME:

20 Q. Do you know what the smoking shed was made of?

21 A. It's plastic.

22 Q. Okay. Combustible; correct?

23 A. Combustible, yes.

24 Q. Did you do any testing in this case related to
25 your opinions?

1 A. I did no physical testing.

2 Q. You didn't do any test burns, for example?

3 A. I did not.

4 Q. When you say "no physical testing," what type
5 of testing did you do?

6 A. So I'm using the analytical and critical
7 thinking test methods for testing my hypothesis that are
8 allowable by NFPA 921. I think I listed them in my
9 report.

10 Q. Okay. Meaning you're testing it within your
11 head?

12 A. Correct. They're all analytical based on
13 critical thinking and analytical thinking models.

14 Q. How was it that you excluded a fire originating
15 at the shed?

16 A. Based on a totality of the physical evidence
17 and a totality of the data and information about the
18 fire, and that totality includes the physical evidence
19 on the burn patterns and fire patterns both on the
20 exterior of the house and the interior of the house.

21 Q. Okay. So the physical evidence is the burn
22 patterns on the exterior and interior of the house?

23 A. Correct, the comparison and contrast.

24 Q. Any other physical evidence?

25 A. Physical evidence of the stage of development

1 of the fire plumes both inside and exterior to the
2 house.

3 Q. How do you explain why there was arcing outside
4 of the shed when there was none inside the house?

5 A. It simply means that a condition occurred
6 within the shed in which the conductors were still
7 energized and arcing occurred, and it's only indicative
8 that arcing occurred on that wiring at a time that they
9 were energized.

10 Q. So we certainly agree that for an arcing to
11 occur in the shed, those wires had to be energized;
12 correct?

13 A. Yes.

14 Q. Which would mean that the electrical service
15 that goes into the house would still need to be active?

16 A. Correct.

17 Q. Okay. Once the electrical service is severed
18 to the house, you can't have arcing in the house and you
19 can't have arcing in the shed; correct?

20 A. Correct.

21 Q. When this fire, if it started inside the
22 bedroom and moved towards the window and ventilated out
23 the window, it's going to vent up; correct?

24 A. Correct.

25 Q. Meaning it's going to lap against the upper

1 part of the eaves of the house?

2 A. Correct.

3 Q. Okay. The shed was lower than the window;
4 correct?

5 A. Correct.

6 Q. So if the fire had started in Bedroom
7 No. 4 and it vents out through the window, the
8 electrical service is going to be first impacted by the
9 fire and heat coming out of the window; correct?

10 A. Yes, and much more quickly than a fire from the
11 shed with no fire from the house.

12 Q. Meaning once you get the flame coming out,
13 venting out of the window, that flame and heat is going
14 to affect the electrical service line quicker than
15 had -- than a fire that is originating in the shed?

16 A. Correct.

17 Q. Basically, once it starts to vent out the
18 window, you have flame lapping right up into the area
19 where the electrical service weatherhead is; correct?

20 A. Correct.

21 Q. Okay.

22 A. Well, not so much the weatherhead, but the
23 routing of the service entrance conductor.

24 Q. And the service conductor is the electrical
25 wire that comes in the -- that provides the house

1 energy?

2 A. Correct, it comes from the utility to the
3 weatherhead.

4 Q. Do you know how high flames will reach when --
5 or strike that.

6 Assume for me the fire originated in the shed.
7 Had the fire originated in the shed, do you agree that
8 the flames and heat generated from a fire at the shed
9 would be enough to sever the electrical service?

10 MR. AYALA: Form.

11 THE WITNESS: I think that potential exists.

12 BY MR. LaFLAMME:

13 Q. Okay. And you have not done any -- you haven't
14 done a test burn or anything on the shed; correct?

15 A. I have not.

16 Q. Do you have any criticisms of Detective
17 Sheaman's investigation in this case?

18 And we've talked about the statements he made
19 to Mr. Wadsworth that you wouldn't have made.

20 MR. AYALA: Form.

21 THE WITNESS: Yeah, and I really haven't done
22 an analysis of his -- sorry.

23 I really haven't done an analysis of his
24 investigation. I wasn't asked to do that.

25 ///

1 BY MR. LaFLAMME:

2 Q. Okay. Well, I'm going to ask you questions
3 about it.

4 A. And I'll answer your questions.

5 Q. So one of the criticisms that you would have
6 had of Detective Sheaman is you wouldn't have made those
7 types of statements to Mr. Wadsworth the day after the
8 fire that he made on the interview?

9 MR. AYALA: Form.

10 THE WITNESS: What I would represent to you is
11 I would not have made those statements. So I don't if
12 that's -- because that's my choice and how I do
13 investigations. I don't know that that means I'm
14 critical of Detective Sheaman.

15 Every investigator does their investigations
16 the way they see fit and they report the findings and
17 conclusions and hypotheses at a time when they see fit,
18 so --

19 BY MR. LaFLAMME:

20 Q. But you were a municipal investigator at one
21 point; correct?

22 A. I was.

23 Q. Okay. As a municipal investigator in your role
24 in that regard, either back then or if you were to step
25 into it today, you would not make those types of

1 statements that Detective Sheaman made to a homeowner
2 the day after the fire; correct?

3 MR. AYALA: Object to the form, and asked and
4 answered, I think, a few times by now.

5 THE WITNESS: My choice is I wouldn't operate
6 that way.

7 BY MR. LaFLAMME:

8 Q. Okay. Did you review the interview that
9 Detective Sheaman had with the Wadsworth children?

10 A. Yes.

11 Q. Any criticisms with the manner in which he did
12 that interview?

13 A. Again, I didn't analyze the interview to see
14 how he conducted it. I would not have conducted it the
15 same way. I have a different way of interviewing.

16 Q. You would have interviewed each child
17 individually; correct?

18 A. Correct.

19 MR. AYALA: Form.

20 BY MR. LaFLAMME:

21 Q. And when you say you would have interviewed
22 each child individually, you would have them in a room
23 maybe with one of their parents and then asked them
24 questions individually?

25 A. Correct. We were required to always have a

1 parent present, yes.

2 Q. So if you were to interview Gunner and Layne in
3 this case, you would have had Layne come with one of his
4 parents and then interview him in an interview room;
5 correct?

6 A. Correct.

7 Q. And then you would have had Gunner separately
8 go in a separate -- or maybe the same room, but at a
9 different time with a parent and you would have
10 interviewed Gunner; correct?

11 A. Correct.

12 Q. And you would have done the same with Kamille?

13 A. Correct.

14 Q. And you probably would have done the same with
15 Weston; correct?

16 A. Correct, because you don't want any influence
17 or bias that can result from a group interview like
18 that.

19 The same thing, I would have never done an you
20 interview in the back of that squad car the way that was
21 conducted because you don't know what the kids are
22 drawing from the other kids in statements that they're
23 making.

24 You don't know if they're actually their
25 statements and their observations or they're playing off

1 what the other kids, the other interviewees are saying,
2 and you don't know if now they're trying to develop in
3 their mind what they think the correct answer is.

4 Q. Well, a formal interview process is a little
5 different than body camera footage that is taken at the
6 scene; correct?

7 MR. AYALA: Form.

8 THE WITNESS: An interview occurred, and so if
9 you're going to do the interview, you need to do it
10 correctly.

11 So you'd still do a body cam at the scene, just
12 not in a group setting like that.

13 BY MR. LaFLAMME:

14 Q. The Wadsworth children were not interviewed by
15 Detective Sheaman until March 4th, 2022, which is more
16 than a month after the fire.

17 A. Correct.

18 Q. Would you have tried to interview the children
19 before that?

20 A. I would have.

21 Q. How quickly would you have tried to interview
22 the children?

23 A. I would have told the parents as soon as -- I
24 always consulted the parents and I would ask them to
25 talk to their medical providers or any type of

1 healthcare that they were dealing with to find out
2 whether or not it's okay to interview them, and you also
3 want the parents to feel okay with that.

4 So you don't want to put anybody in a position
5 that they're resentful for the interview, but I always
6 tried to do it as soon as possible.

7 Q. And you also identified in your report that
8 Detective Sheaman had incorrectly identified one of the
9 outlets as belonging to Bedroom 4 with wiring in it when
10 that outlet actually was in the kitchen?

11 MR. AYALA: Form.

12 THE WITNESS: Correct.

13 BY MR. LaFLAMME:

14 Q. Anything else with Detective Sheaman's
15 investigation that either you would have handled
16 differently or that you thought was incorrect?

17 A. Not that I can think of as I sit here, no.

18 Q. I'm going to show you what's been marked as
19 Exhibit 100 which are some diagrams that came from your
20 file, and these were put together by Mr. Birdsong;
21 correct?

22 A. Correct.

23 (The aforementioned document was
24 marked as Exhibit 100 for identification
25 and is attached hereto.)

1 BY MR. LaFLAMME:

2 Q. Okay. And in looking at the diagrams, these
3 are -- well, some of these are similar to the ones we
4 marked before.

5 A. That's Exhibit 98. They're the same diagrams
6 as appear in Exhibit 98.

7 Q. Okay. This one's just in better detail, it
8 looks like, or crisper?

9 A. Well, they're just enlarged. Exhibit 98, the
10 diagrams are shrunk.

11 Q. Gotcha.

12 Okay. So looking at Exhibit 100, in the
13 hallway you can see the attic fan?

14 A. Correct.

15 Q. And that's the whole house fan?

16 A. The "whole house fan" is what I refer to it as.

17 Q. And is that dimensionally accurate as far as
18 the size within the hallway on this diagram?

19 A. I don't know if it is on this diagram, but you
20 could draw that data from the Matterport documentation.

21 Q. Okay. I know Mr. Birdsong indicates in the
22 lower right "approximate" scale.

23 So is it your understanding that his attempt
24 was to make this approximately to actual scale?

25 A. Yes, because he's been trained to never say

1 anything is totally to scale.

2 Q. Okay. But his goal would have been to show the
3 approximate dimension of the attic fan as compared to
4 other components of the house around it?

5 A. Correct. And I've looked at hundreds of his
6 diagrams and that's always been his intent.

7 Q. Do you know if the whole house fan was running
8 at the time of the fire?

9 A. I don't have any information one way or the
10 other.

11 Q. Do you know how the whole house fan was
12 operated as far as how it was turned on and off?

13 A. I don't.

14 Q. I'll show you what's been marked as 101. And
15 these are just your notes from your initial call with
16 Mr. Ayala; correct?

17 A. Correct.

18 (The aforementioned document was
19 marked as Exhibit 101 for identification
20 and is attached hereto.)

21 BY MR. LaFLAMME:

22 Q. Okay. And if you go to the second page, it
23 indicates your continued role towards the bottom.

24 Do you see that?

25 A. I do.

1 Q. Okay. And then I think it says "scene
2 documentation"?

3 A. Correct.

4 Q. And then "joint scene inspection"?

5 A. Correct.

6 Q. And "origin determination"?

7 A. Correct.

8 Q. Okay.

9 A. And the second line is referring to the
10 May 2022 inspection.

11 Q. That was going to be my question as to which
12 scene inspection that references.

13 A. That's what I was thinking of when I wrote it
14 down.

15 Q. Okay. So with respect to your involvement in
16 this case and your designation as an expert, is that
17 your understanding of what your role is, these three
18 items?

19 A. Correct, because I was aware of, you'll see in
20 the front page, that other activities had been
21 occurring.

22 Really, when he called me, because I hadn't
23 heard anything about the case, I wasn't even sure if the
24 case was still in progress, and so I was defining my
25 role and I made notes of it because, obviously, I missed

1 a bunch of inspections.

2 And so I particularly wanted to put guardrails
3 on or bookends that I was not going to talk about the
4 alleged failure of the hoverboard.

5 Q. Okay.

6 A. So I think my testimony here today has followed
7 these bookends defined here.

8 Q. Meaning you weren't going to talk about the
9 cause of the fire?

10 A. Correct.

11 Q. And you'd agree that if your origin
12 determination is not correct, then the cause
13 determination would not be correct?

14 MR. AYALA: Form.

15 THE WITNESS: Yeah, there exists that
16 possibility.

17 BY MR. LaFLAMME:

18 Q. Meaning if your origin determination in this
19 case isn't accurate, the cause can't be accurate as
20 identified by BEAR; correct?

21 A. I'll state it this way: The cause of this fire
22 incident necessarily has to be located within the area
23 of origin I defined.

24 Q. I'll show you what's Exhibit 102, and these are
25 some notes regarding findings and conclusions which I

1 think track your report to a certain extent.

2 (The aforementioned document was
3 marked as Exhibit 102 for identification
4 and is attached hereto.)

5 BY MR. LaFLAMME:

6 Q. In here there's a reference for Dr. Rondinone.

7 A. Correct. I was originally told that he was the
8 contact at Berkeley so that's the reason I included his
9 name, and then later I learned that it was actually
10 Derek.

11 Q. Mr. King?

12 A. Mr. King.

13 Q. And Dr. -- I'm probably butchering the name,
14 but Rondinone is R-o-n-d-i-n-o-n-e.

15 Are you aware of any role that Dr. Rondinone
16 had with respect to this investigation?

17 A. No, but that's the name I was originally given
18 at -- for the BEAR activities and it just might be
19 because he's one of the partners of the primary experts
20 there.

21 Q. Who gave you that name?

22 A. My client, Mr. Ayala, in that March phone call.

23 Q. And do you know if Dr. Rondinone has done
24 anything with this case?

25 A. I don't, as I sit here, no.

1 Q. You have never spoken with him?

2 A. I have not.

3 Q. Do you know Dr. Rondinone?

4 A. You know, I think that I've met him because
5 I've been to BEAR a number of times, but if he walked in
6 here today, I couldn't recognize -- I wouldn't be able
7 to tell you.

8 Q. Do you know Mr. King at all?

9 A. I only -- again, I only know his name. I've
10 never met him in person either.

11 Q. Have you ever had another case where Mr. King
12 was involved?

13 A. No.

14 Q. So in looking at Exhibit 102, it goes through
15 seven findings and conclusions.

16 Do you see that?

17 A. Correct.

18 Q. And for four of those you're deferring to BEAR;
19 correct?

20 A. Correct, either partially or in total.

21 Q. And the four that you're deferring to BEAR is
22 the first bullet point, the third bullet point, the
23 fourth bullet point, and the seventh bullet point?

24 A. First, third, and seventh, is that what you
25 said?

1 Q. One, three, four, and seven.

2 A. That's correct.

3 Q. And you said deferring either in totality or
4 partially. Which ones are you deferring to partially?

5 A. Because the second one, I'm doing the origin
6 and that's the origin opinion.

7 What Mr. Ayala related to me during that
8 initial conversation is that BEAR's opinion would opine
9 that the hoverboard and its failure was the first
10 adverse event and the first thing that occurred, and so
11 that's why I put that that opinion is consistent with my
12 origin.

13 Q. Okay. So the second bullet point is the one
14 that you're saying you partially defer, but also invokes
15 your own opinion as well?

16 A. It's mostly my opinion, yes.

17 Q. Okay. But with respect to the one, three, four
18 and seven where you specifically state "Defer to
19 investigation and analysis of consulting expert of
20 Dr. Rondinone of Berkeley Engineering And Research,
21 Inc.," that's all BEAR that you're relying on?

22 A. Yeah. I'm just reporting what the findings are
23 in the totality of the report.

24 Q. Okay. I'll show you what's been marked as
25 Exhibit 103 which is a copy of your testimony list, and

1 this is updated as of July 1, 2024; correct?

2 A. Correct.

3 (The aforementioned document was
4 marked as Exhibit 103 for identification
5 and is attached hereto.)

6 BY MR. LaFLAMME:

7 Q. And I believe, or maybe you have a deposition
8 coming up?

9 A. I have a deposition on Thursday.

10 Q. Okay.

11 A. I'm just looking at the list to see if I've had
12 any others. There's one other one that's not on this
13 list.

14 Q. Okay. What's the one that you would add?

15 A. I would add Villarel, V-i-l-l-a-r-e-l, versus
16 IHC. They're the school bus manufacturer that was
17 pending in Texas. So my deposition was two or three
18 weeks ago, and the case is now, it settled as of this
19 week.

20 Q. So that's the only additional one that you
21 would need to add to this testimony list?

22 A. Correct.

23 Q. Okay. In your testimony list, there's U.S.
24 deposition trial and then you have a couple designations
25 for motion hearings.

1 A. Correct.

2 Q. And I think the first one is on Page 2.

3 Are those Daubert motions, or Rule 702 motions?

4 A. Let me see the case.

5 So on Page 2 there's Zamora. It was not a
6 Daubert motion. It was a motion I testified in support
7 of the judge granting us a court order for some interest
8 of testing of a gas service line.

9 Q. So more a motion hearing to conduct some
10 testing that wasn't allowed?

11 A. Exactly, yes.

12 Q. And then there's another one on Page 4 -- I'm
13 sorry, on Page 5, Walker v. Conagra?

14 A. That was -- that was a hearing to limit my
15 testimony in a Pam cooking oil case.

16 Q. Okay. And was your testimony limited?

17 A. I don't know that I ever heard the result
18 because the case settled.

19 Q. You're not aware that there was certain
20 testimony of yours that was going to be excluded?

21 MR. AYALA: Form.

22 THE WITNESS: I don't recall what was or
23 wasn't.

24 BY MR. LaFLAMME:

25 Q. Have you ever read the case?

1 A. I have not.

2 Q. Have you ever talked to counsel about the
3 results of the case?

4 A. I have not.

5 Q. So as to what was limited from your opinions,
6 you're not aware?

7 A. Not as I sit here, no.

8 Are you representing there's a published case?

9 Q. There is a published case, yes.

10 A. Thanks.

11 Q. Any cases in which you have been fully excluded
12 as an expert?

13 A. Only once, and it was a carbon monoxide
14 poisoning case in Southern Texas, man, 15 years ago.

15 I did some testing at the structure, but I was
16 not the witness that was testifying about the carbon
17 monoxide poisoning.

18 I did the testing because I had the equipment,
19 and the magistrate didn't let us present the testing,
20 ruling that we hadn't showed that it's reproducible.

21 Q. Is that the Garcia case?

22 A. Yes.

23 Q. And --

24 A. I don't remember what the actual case is, but
25 that's what I call it.

1 Q. Garcia v. BRK?

2 A. Yes.

3 Q. And in that case you -- the testing that you
4 had conducted was deemed unreliable; correct?

5 A. Correct, because I didn't repeat -- his
6 specific ruling was we didn't repeat it, we didn't do it
7 more than once.

8 Q. And you used an incorrect model detector;
9 correct?

10 MR. AYALA: Form.

11 THE WITNESS: That wasn't the mistake. I
12 intentionally used that model detector. So I was unable
13 to use the model detector that was actually involved in
14 the incident.

15 BY MR. LaFLAMME:

16 Q. Do you know if the court took issue with the
17 fact that you used a model detector that was not the
18 model that was used in the incident?

19 A. I don't recall. It's been sometime since I
20 read that.

21 Q. Any other cases in which you recall being
22 struck?

23 A. I've really never been struck. I'm usually
24 not -- I usually am not the subject of Daubert motions
25 in these fire cases.

1 Q. Do you recall a Smith v. Chrysler Group case?

2 A. I do.

3 Q. Were your opinions limited in that case?

4 A. My supplemental report after I testified
5 initially in my deposition, I filed a supplemental
6 report, the court didn't allow that supplemental report.

7 Q. Okay.

8 A. So it didn't speak to the opinions. It spoke
9 to the fact that it wasn't filed in a timely manner.

10 Q. So whatever supplemental opinions were provided
11 for whatever reason were barred?

12 A. Correct.

13 Q. Okay. Any other cases that you can recall?

14 A. Not that I can recall sitting here.

15 Q. Have you reviewed any of the party's document
16 productions in this case?

17 A. No. Well, I haven't reviewed any document
18 productions presented by the defendants --

19 Q. Okay.

20 A. -- other than the Walmart receipt.

21 Q. You don't have any opinion with respect to the
22 hoverboard and whether it was -- its design was
23 consistent with UL standards?

24 A. I have no opinion one way or the other.

25 Q. And I presume no opinion as to whether its

1 design -- or it was manufactured consistent with UL
2 standards?

3 A. No opinion one way or the other.

4 Q. Okay. It's fair to state that respect to the
5 hoverboard in totality, you don't have any opinions?

6 A. Better than fair, it's true.

7 Q. Okay. What is your -- your current rate
8 schedule is 475?

9 A. Correct.

10 Q. And is that across the board, meaning for
11 depositions, testimony as well?

12 A. For all work, yes. This case was probably
13 billed at a different range because it started before
14 the current rate.

15 Q. But that's your current rate; correct?

16 A. The current rate is 475 an hour for all
17 activities.

18 Q. Did you do any assessment of the X-rays from
19 the hoverboard?

20 A. I wouldn't call it an assessment. I looked at
21 them and saw the number of cells that showed failure.

22 Q. Did you do any assessment as to the condition
23 of the printed circuit board?

24 A. I did not.

25 Q. Have you done any assessment of the hoverboard

1 to determine whether it is consistent, or any assessment
2 of the condition of the hoverboard to determine whether
3 it is consistent with a fire originating within the
4 hoverboard, or have you left that to King?

5 A. I did not. I'd defer to King on that.

6 Q. So with respect to the condition of the
7 hoverboard, where it's fire damaged, and what is and
8 what isn't fire damaged, that's not anything that you
9 did an assessment of for this case?

10 A. That's correct.

11 Q. Did the Bedroom No. 4, did it go into
12 flashover?

13 A. I did not see any conclusive evidence that I
14 can say that flashover occurred.

15 There definitely is fire damage at all
16 different levels, but whether an actual flashover
17 occurred or not, I'm not able to say.

18 Q. Okay. Once the -- so with the breached window
19 or once the window is not in place, that's an area of
20 ventilation for the fire; correct?

21 A. Correct.

22 Q. And then the other area of ventilation for the
23 fire within Bedroom 4 is through the doorway?

24 A. Correct.

25 Q. Okay. So when the fire is ventilating, it has

1 those two areas of ventilation, and let's find the graph
2 that was the better one.

3 A. Oh, with the smaller pictures?

4 Oh, (indicating).

5 Q. There we go.

6 So looking at Exhibit 100, we can see Bedroom
7 No. 4; correct?

8 A. Correct.

9 Q. Okay. So the window is basically between the
10 bed and the smoking shed depicted on this diagram?

11 A. Correct.

12 Q. Okay. The areas of ventilation from this
13 bedroom are the window and the doorway; correct?

14 A. Correct, the window on the east wall, the
15 doorway on the west wall.

16 Q. Okay. So as the fire is ventilating, that
17 would create a fire path between those two ventilation
18 areas; correct?

19 A. Correct.

20 Q. And you would, in a fire which has two sides of
21 ventilation, you would expect to see the most fire
22 damage along that path of ventilation; correct?

23 MR. AYALA: Form.

24 THE WITNESS: Correct, absent any other way for
25 the fire flow to go.

1 BY MR. LaFLAMME:

2 Q. So once that -- assume for me the fire started
3 out here, it then breached the window, and it comes into
4 the room, it's then ventilating out the window and
5 ventilating out this door; correct?

6 A. Correct.

7 Q. Okay. So then you would have a path of fire
8 that is ventilation-driven where you would have the most
9 fire damage between the two areas of ventilation;
10 correct?

11 A. Correct.

12 Q. And similarly, whenever there is two areas of
13 ventilation, you're going to have increased heat in the
14 fire path between those two areas of ventilation;
15 correct?

16 A. Yes, because of the second ventilation opening,
17 you're bringing in fresh air.

18 Q. Right. So in a ventilation-driven fire, that
19 can create fire patterns that aren't necessarily related
20 to the origin of the fire; correct?

21 A. Correct, and that's why you have to look at the
22 totality of all the fire patterns.

23 Q. At some point, was this a ventilation-driven
24 fire?

25 A. Yes.

1 Q. And even in your analysis, that would have
2 occurred once that window was breached; correct?

3 A. It becomes more dominant ventilation control.

4 Q. And that's because you have two areas of
5 ventilation at that point?

6 A. Correct.

7 Q. Was the boys' bedroom door open or closed when
8 the fire started?

9 A. I wasn't able to determine that, but the
10 testimony is that Gunner tried to close it, but then it
11 bounced back open, or tried to close it, but it bounced
12 open to some degree.

13 So based on the testimony, the indication is it
14 was some degree open. So let's just call it partially
15 open.

16 Q. Okay. Do you know how partially open it was?

17 A. I don't.

18 MR. LaFLAMME: Rudy, I didn't bring you a copy
19 of this one. It was too heavy. That's the report.

20 Q. I'm handing you what's been marked as
21 Exhibit 104.

22 All right. Exhibit 104 is your -- the report
23 that you issued in this case; correct?

24 A. Correct.

25 Q. All right. And this is the only report you've

1 issued to date?

2 A. Correct.

3 (The aforementioned document was
4 marked as Exhibit 104 for identification
5 and is attached hereto.)

6 BY MR. LaFLAMME:

7 Q. Going to the first page is just background
8 information. The second page is still continued to be
9 background information.

10 A. Correct.

11 Q. With respect to information about your company,
12 so you're a registered corporation in Illinois?

13 A. Yeah, that's where it's --

14 Q. That's where you started?

15 A. That's where it started and still is.

16 Q. And then there's a reference to Texas statutes
17 that require experts to be licensed through Texas
18 Department of Public Safety.

19 Do you see that?

20 A. Yeah. That was -- that was a position put
21 forward, oh, man, a long time ago.

22 So I did a lot of work in Texas; so I just went
23 and got their license, and then once you get it, it was
24 so much work to get it, I just -- I maintain it.

25 That is not their position any more that you

1 have to be licensed there unless you have an office
2 there, but it's still active.

3 Q. Do you have any specific licenses to Wyoming?

4 A. No.

5 Q. On Page 7, you have a statement that "This
6 comprehensive summary then was not intended to enumerate
7 and specifically describe in detail each and every
8 individual fact or observation upon which my findings
9 and conclusions were based."

10 Do you see that?

11 A. I do.

12 Q. What does that mean?

13 A. So an example of today, I indicated to you the
14 overall opinion is here's the origin and where it's
15 located, on what wall.

16 And then see, I look at all the fire pattern
17 analysis. Each one of those is kind of a separate
18 little opinion, and so that's what I'm trying to say
19 here.

20 I'm not listing each and every opinion. I'm
21 giving you the major opinions I expect to give at trial.

22 Q. And you did not provide any fire sequencing
23 detail in your report; correct?

24 A. No.

25 Q. Why didn't you put that in your report?

1 A. I just normally don't.

2 Q. With respect to authoring expert reports, you
3 understand that they are to -- an effort to show your
4 investigation process in the case; correct?

5 A. Correct.

6 Q. And I assume you agree that NFPA 921 is the
7 guide that you attempted to follow in your
8 investigation; correct?

9 A. Correct.

10 Q. What version or edition of NFPA 921?

11 A. I stay up with the current versions.

12 Q. So would it be the 2024 one or the 2021?

13 A. Uh, I've got the 2024 by now.

14 Q. But when you did the May inspection, it was the
15 2021 edition that would have been in effect?

16 I know there's not much difference between the
17 two.

18 A. Yeah, but, you know, I'm always watching the
19 progress of the committee and looking at all the
20 comments and that, so I try to stay current.

21 I don't try to use that -- well, I try to use
22 what was the state of the generally recognized and
23 accepted practices of this profession at the time
24 irregardless of what NFPA 921 edition was applicable.

25 Q. Okay. In your report, you didn't list any of

1 the other hypotheses that you considered; correct?

2 A. I did not. I did those -- there's a specific
3 set of notes on that issue in my case file.

4 Q. Okay. What are those notes called?

5 A. Uhm, let me find it. They're going to be in
6 the case notes folder, I can tell you that.

7 Q. Okay. The notes "Competing hypothesis"?

8 A. That's it.

9 Q. So in that note it does not provide any detail
10 as to what other competing hypothesis you listed or
11 considered.

12 A. It doesn't give the specific details. It just
13 lists what I considered as I was doing that competing
14 hypothesis opinion.

15 Q. It just lists process that you went through.
16 It doesn't list what hypothesis there is --

17 A. Hold on. Let me find it.

18 Q. -- unless I'm looking at the wrong one.

19 A. Yeah, I think you might be.

20 Yeah, I know what notes you're looking at.
21 There's another set of notes.

22 Okay. So it's called -- I see which one you're
23 looking at. That describes the process.

24 There's another set, it's called "Notes -
25 Potential Competing Hypotheses," and then I've listed

1 them.

2 Q. Yeah. And so that's where you keep your -- the
3 hypotheses that you took a look at as opposed to putting
4 them in your report?

5 A. Yeah, that was while I'm going through my
6 analytical process and testing and so forth, yes.

7 Q. Okay. And did you do any physical testing on
8 any of these hypotheses?

9 A. No.

10 Q. Looking at the -- going to Page 19, just the
11 graphs that you're pulling, these are from the 2021
12 edition of NFPA 921; correct?

13 A. They probably are, yes.

14 Q. Okay. You have a reference to NFPA 1730 in
15 your report. What applicability does 1730 have to this
16 case?

17 A. So 1730 addresses, it's in the series within
18 NFPA 921, and so I think I characterized it for you in
19 here.

20 Q. Doesn't that relate to code enforcement issues?

21 A. Well, but it also, that code also covers fire
22 prevention inspection and investigation.

23 So there are references of investigation, but I
24 would represent to you if you're following NFPA 921 and
25 NFPA 1033, you could live without 1730, but I include it

1 because it does address investigation in it.

2 Q. Okay.

3 A. But it's more the administrative organization
4 of it.

5 Q. Was there anything with respect to NFPA 1730
6 that was applicable to your investigation in this case?

7 A. Other than it reinforces that you also have to
8 follow 921 and 1033, no.

9 So I'm not being -- I'm really not being guided
10 by NFPA 1730 during my investigation.

11 Q. Okay. Starting on Page 30, I believe -- no,
12 one more, 29, that's where you first start to get into
13 the particulars of the -- of this incident; correct?

14 A. Correct.

15 Q. So everything before Page 29 are general
16 references to various NFPA guides, 921, 1033, 1730, and
17 background on your accompanying involvement in this
18 case?

19 A. Well, it's also the methodology and applied
20 practices, and so forth, that I believe are required by
21 the requirements of a Rule 26(b) report.

22 Q. Okay.

23 A. But, you know, I get asked about that,
24 "So isn't it the same thing in every report?"

25 Yeah, because the recognized practice hasn't

1 changed, so --

2 Q. Yeah. And certainly, you agree that basically
3 from Pages 1 to 28, other than the specifics about
4 Mr. Ayala and who you were hired by in this case, that's
5 the same in almost every report you do?

6 A. Correct.

7 Q. Okay.

8 A. Every report that I write is a federal report,
9 but I choose to do all my reports as if they're Federal
10 Court cases.

11 Q. With respect to the summary of hostile fire
12 incident, you didn't provide any sources as to where
13 you're getting all of this information. What are those
14 sources?

15 A. Well, I am because I'm telling you as
16 documented and memorialized in what report I'm looking
17 at.

18 Q. Okay.

19 A. So for each section I'm telling you what I'm
20 looking at and what I'm reading.

21 Q. You don't have any information in there about
22 any of the body camera footage statements; correct?

23 A. I don't. I didn't do any summarization of
24 those.

25 Q. And there's no statements in here in the

1 summary about the condition of the bedroom or the window
2 when Gunner and Layne woke up; correct?

3 A. Correct.

4 Q. On Page 39 you have an indication about what
5 Fire Chiefs Bill Robinson and Larry Erdmann have found
6 with respect to area of origin?

7 A. Yes.

8 Q. Have you read their depositions?

9 A. I have.

10 Q. You're aware that Larry Erdmann did not come up
11 with an origin determination; correct?

12 A. That's what he testified to in his deposition,
13 but that wasn't what was reported in the sheriff's
14 department's supplemental narrative that I indicated
15 here.

16 Q. The sheriff's department supplemental narrative
17 was something done by the sheriff's department as
18 opposed to the Green River Fire Department; correct?

19 A. Correct.

20 Q. And you saw in Fire Chief Robinson's deposition
21 that when he was presented with additional evidence
22 related to this fire, that he indicated that the fire,
23 as he sat there today, would be undetermined pending
24 further investigation?

25 A. Correct.

1 Q. So you're just referencing what the
2 supplemental narrative said as opposed to what those
3 individuals testified to?

4 A. Correct.

5 Q. When the hoverboard was located on the floor,
6 did you make a determination as to whether it was
7 outside of the swing of the door or inside the swing of
8 the door?

9 A. I did not.

10 Q. Do you know one way or the other whether it was
11 outside or inside the swing of the door?

12 A. We could factor that by the photographs and the
13 stud spacing.

14 Q. And certainly that's something you --

15 A. It's certainly not -- it's certainly not
16 totally behind the door.

17 Q. And that's something you could do with the
18 Matterport; correct?

19 A. The Matterport would tell you that as well.

20 Q. All right. A lot of these we've already gone
21 through, so I'm flippin' through.

22 A. Just keep flippin'.

23 Q. Going to Page 46, this is the discussion about
24 the May 18th, 2022 inspection; correct?

25 A. Correct.

1 Q. Okay. And there was a joint inspection
2 protocol and that's what you're describing on 46?

3 A. Correct.

4 Q. Okay. So with respect to what occurred on
5 May 18th, just so we're on the same page, basically, you
6 got to the third bullet point and then that's when the
7 inspection was stopped?

8 A. I agree with that.

9 Q. Okay. So with respect to the bullet points
10 after "3," you were not personally involved in any of
11 those activities?

12 A. That's correct.

13 Q. Then you include X-rays on Page 49 and 50, but
14 that's more just for background information because you
15 don't have any opinions with respect to the hoverboard?

16 A. Correct, other than it was obvious to me that a
17 couple of the cells had failed.

18 Q. How many cells failed?

19 A. Uhm, I'd have to go back and look at the
20 picture. There's more than one.

21 Q. Have you ever seen the CT scans in this case of
22 the hoverboard?

23 A. I have not.

24 Q. Were you provided copies of those at all?

25 A. Not -- I don't believe so.

1 Q. Do you know, as you sit here today, how many
2 cells had expelled?

3 A. I don't know. I wasn't involved in that
4 examination.

5 Q. Do you know the manner in which the cells
6 expelled?

7 A. I don't. I'm not offering opinions on that.

8 Q. You have -- let me strike that.

9 With a fire that initiates from careless
10 disposal of smoking material, that generally can be a
11 smoldering type fire; correct?

12 MR. AYALA: Form.

13 THE WITNESS: It has a high likelihood to do
14 that, yes.

15 BY MR. LaFLAMME:

16 Q. Okay. And in saying "smouldering type fire,"
17 meaning that that is a fire that could initiate a
18 lengthy period of time after the actual careless
19 disposal of smoking materials occurs?

20 A. And before and after the flaming combustion,
21 yes.

22 Q. Meaning if Mrs. Wadsworth had smoked in the
23 smoking shed sometime between 1:30 and 2:00 a.m. and
24 this fire initiated sometime between 4:00 and 4:30 a.m.,
25 and assuming it was due to careless use of smoking

1 material, that time lapse is not unusual with careless
2 use of smoking material-generated fires?

3 MR. AYALA: Form.

4 THE WITNESS: No, it can't be used to exclude
5 that possibility.

6 BY MR. LaFLAMME:

7 Q. Meaning the time difference from which
8 Mrs. Wadsworth testified that she last smoked in the
9 smoking shed and the identification of this fire had it
10 started -- assuming it started in the smoking shed, that
11 time lapse would not exclude careless use of smoking
12 material?

13 A. No.

14 Q. Looking at Pages 56 to 59, this is a list of
15 all the evidence in this case; correct?

16 A. Correct.

17 Q. All right. And aside from visual observations
18 either in person or of photographs, you have not
19 physically inspected any of the evidence in this case?

20 A. Not as part of an evidence exam.

21 Obviously, I looked at the -- I looked at the
22 hoverboard the first time we were there. I looked at
23 the outlet. I looked at some of the branch wiring and
24 so forth, but I did not look at any of this evidence as
25 part of a subsequent organized laboratory inspection.

1 Q. And when you looked at it, you looked at it in
2 a nondestructive documentation fashion?

3 A. Visual only, nonintrusive, nondestructive.

4 Q. Okay.

5 A. The hoverboard had already been removed from
6 the scene prior to my involvement.

7 Q. And that was removed by Ms. VanDongen?

8 A. She was in possession of it, but I thought she
9 told us the fire department had removed it and brought
10 it out to the front porch is my recollection.

11 Q. Have you ever had or have you ever retained any
12 evidence in this case?

13 A. No.

14 Q. When a lithium-ion battery fails, it makes a
15 loud noise; correct?

16 A. I feel that more often there is an audible
17 report, yes.

18 Q. Meaning it makes a "bang" type noise?

19 MR. AYALA: Form.

20 THE WITNESS: I don't know how to characterize
21 it.

22 BY MR. LaFLAMME:

23 Q. It's probably a poor characterization as well.

24 A. Because I've seen demonstrations, sometimes
25 they're very loud, sometimes they're not so loud.

1 Sometimes they're, I would character it as a
2 "bang," and sometime it's more of a fizzing, offending
3 sound.

4 Q. It does have an audible response to a
5 lithium-ion battery failing; correct?

6 A. Definitely an audible report, yes.

7 Q. There haven't been any indications from the
8 Wadsworth children of an audible sound coming from the
9 hoverboard either just prior to them -- strike that.

10 There haven't been any reports from the
11 Wadsworth children of an audible sound coming from the
12 hoverboard around the time of the fire?

13 MR. AYALA: Form.

14 THE WITNESS: I don't recall any indication
15 provided by them of that.

16 BY MR. LaFLAMME:

17 Q. There was certainly no mention of it in their
18 interviews with Detective Sheaman; correct?

19 MR. AYALA: Form.

20 THE WITNESS: Limited to at the time of the
21 fire, the start of the fire, if that's something that
22 woke them up, no, but they do talk about hearing noises
23 as the fire continued and they were present on the
24 scene.

25 ///

1 BY MR. LaFLAMME:

2 Q. Correct, but when they first woke up, it wasn't
3 the noise from the hoverboard that woke them up?

4 A. Nobody has indicated what the stimulus was that
5 woke them up. So I would agree with your statement. No
6 one's attributed to a "bang" or a particular noise.

7 Q. And the only "bang" that the Wadsworth children
8 reported hearing was shortly before they exited the
9 house through the garage; correct?

10 MR. AYALA: Form.

11 THE WITNESS: That's one time, but I also
12 thought they talked about hearing more than one audible
13 report during the fire is my recollection.

14 BY MR. LaFLAMME:

15 Q. Okay. And where are you getting that from?

16 A. It was either in the interviews or their
17 depositions.

18 Q. Do you know which one?

19 A. I don't recall as I sit here. I would have
20 highlighted it, so I would have to go back to the
21 transcripts.

22 Q. So on Page 67 of the items that you also
23 reviewed, you have the compilation of Sweetwater County
24 Sheriff's Department body cam images.

25 Those are just the ones that are in your file?

1 A. Correct.

2 Q. Okay.

3 A. Yes, so everything identified in this report is
4 what's in my case file.

5 Q. And those are under your case "Sweetwater
6 County SO FOIA Response"?

7 A. Correct. Stated more completely, everything I
8 have in regard to this case file is in that electronic
9 case file.

10 Q. You have a reference in your file to a recall
11 of a Jetson hoverboard?

12 A. Correct. I thought I found a recall for the
13 one of their models.

14 Q. That's the Rogue model?

15 A. Yes.

16 Q. Did that have any involvement in your
17 investigation?

18 A. No.

19 Q. Do you know whether the Rogue model hoverboard
20 even shares the same battery cells with the plasma?

21 A. I do not.

22 Q. You didn't do any investigation as to what the
23 similarities may or may not be between the Rogue and the
24 plasma models?

25 A. I did not, no.

1 Q. On Page 76 of your report, you talk about
2 "An origin of a hostile fire incident may also include
3 the analysis of information and data obtained from other
4 sources, including but not limited to the following,"
5 and then you have three bullet points.

6 A. Correct.

7 Q. The second bullet point is the application and
8 analysis of arc mapping.

9 Do you see that?

10 A. I do.

11 Q. Okay. You did not do any arc mapping in this
12 case; correct?

13 A. No.

14 Q. Is that because the only arcing that was
15 present was at the smoking shed outside?

16 A. Well, it's that and the initiation of this fire
17 based on my analysis is not related to a failure of an
18 electrical system of the involved structure where the
19 arc mapping would probably become more important.

20 Q. Arc mapping can be used to identify an area of
21 origin as well -- correct? -- even if it's not an
22 electrical failure with the electrical house wiring?

23 A. Yeah. And 921 has downgraded that position
24 over time. So if you go to the current versions, it
25 would probably be in conflict with the list I use.

1 I still think it's a tool, but in order to be
2 an effective tool, you have to totally know how the
3 system is wired and how everything interacts with one
4 another.

5 That's why I say the arcing found in the shed
6 indicates that when that arcing occurred, those circuits
7 were energized.

8 Q. All right. Meaning they would have been
9 attacked by fire when those circuits were energized?

10 A. Correct. So arc mapping really, in my
11 experience, comes more into play is when you have
12 multiple locations of arcing within a fire scene or a
13 structure, whatever, and you're trying to determine
14 which one came first. That's the real focus of the
15 application of arc mapping.

16 Q. In your report, you list the first fuel ignited
17 as the electrolyte in the first failed lithium-ion
18 battery cell.

19 A. Correct.

20 Q. But you aren't aware that King is claiming that
21 two cells failed almost simultaneously?

22 MR. AYALA: Form.

23 THE WITNESS: I wasn't aware of that when I
24 wrote this. I'm just reporting, because that's the
25 failure mode of lithium-ion batteries. That's always

1 the first fuel.

2 BY MR. LaFLAMME:

3 Q. Okay. Where was it that you got the
4 information that the electrolyte in the first failed
5 lithium-ion battery cell was the first fuel ignited?

6 A. I'm just trying to express that there had to be
7 the first one. So the very first one that failed would
8 be -- that would be the source of fuel for it.

9 Q. Okay. But you haven't seen King's report;
10 correct?

11 A. I wasn't aware that he's saying that two failed
12 simultaneously. I don't know that I -- well, as I sit
13 here, I don't know if it's possible for two to fail at
14 exactly the same time.

15 Q. Okay. I agree with you.

16 MR. AYALA: Move to strike.

17 BY MR. LaFLAMME:

18 Q. You have not seen King's report; correct?

19 A. I have not.

20 Q. You have not seen King's deposition; correct?

21 A. I have not.

22 Q. With respect to your statement "the electrolyte
23 in the first failed lithium-ion battery cell," where did
24 you get that information?

25 A. I'm just making a deduction that one cell had

1 to be the first one to fail and that the failure of that
2 one may have contributed to the failure of the next
3 cell.

4 Q. Okay. But who told you it was a lithium-ion
5 battery cell that failed? Was that counsel?

6 A. I could see that in the extract. I could see
7 that when I visually looked at the hoverboard.

8 Q. But you're not offering any opinions as to the
9 cause of this fire; correct?

10 A. Correct.

11 Q. So where do you get the information on the
12 first fuel ignited?

13 A. I'm reporting this from my understanding of
14 what Mr. King's opinions are going to be as related to
15 me by counsel.

16 Q. So you got this information from counsel?

17 A. That's the basis for it, yeah. I'm not
18 rendering that opinion independently and separately from
19 Mr. King.

20 Q. Because you haven't talked to King, you haven't
21 read King's report; correct?

22 A. Correct.

23 Q. So the opinion under "first fuel ignited,"
24 that's not your opinion?

25 A. That's correct. That's fair.

1 Q. And then similarly with the ignition sequence,
2 cause of the hostile fire incident, that's not your
3 opinion either?

4 A. That's correct. That's all Mr. King's venue.

5 Q. I think we actually have an exhibit somewhere
6 where you walked through that in a little more detail
7 where you defer to BEAR; correct?

8 A. Correct. I believe we marked it already.

9 Q. Yeah, Exhibit 102.

10 A. Got it. Yes, that's correct.

11 Q. Okay. And I think Exhibit 102 actually tracks
12 your report; correct?

13 A. It does, yeah.

14 Q. Okay. So in looking at Exhibit 102, on
15 Page 73, the nature of the hostile fire event or nature
16 of the hostile fire incident, that section you are
17 deferring to BEAR?

18 A. Correct.

19 Q. Yeah. And then 74, the origin determination
20 which we've been talking about, that was your role in
21 this case?

22 A. Correct.

23 Q. Okay. The first fuel ignited section, on
24 Page 78 you are deferring to BEAR?

25 A. Correct.

1 Q. The ignition sequence on Page 79, you are
2 deferring to BEAR?

3 A. Correct.

4 Q. And then the classification of the cause, in
5 that regard, you're just looking at the four options
6 under NFPA 921?

7 A. Correct. I made that determination.

8 Q. And that's just incendiary, accidental
9 intentional, or undetermined?

10 A. Correct. I'm just trying to indicate that
11 there's no indication that this is an intentionally set
12 fire or incendiary in nature.

13 Q. And then the development, progression,
14 propagation, we've talked about that a little bit thus
15 far; correct?

16 A. Correct.

17 Q. And that's what your photographs that you
18 pulled for Exhibit 97, you pulled those in attempt to
19 explain that further?

20 A. Correct. And I've given some science on the
21 way that heat is transferred in all fires, including
22 this fire.

23 Q. With respect to that section in your report,
24 there isn't anything specific to this case in that
25 section. You're just giving the background on how heat

1 is transferred?

2 A. In any fire, yes. So it's applicable to this
3 case because this is a fire.

4 Q. But you're just giving definitions basically of
5 how conduction, convection, and radiation heat is
6 transferred from one object to another?

7 A. Correct.

8 Q. Okay. You don't go through any specific
9 sequencing of the fire development in this case in your
10 report?

11 A. Other than the heat and flame vector analysis,
12 no.

13 Q. But that's not in your report. That's in your
14 notes; correct?

15 A. Correct.

16 Q. And then for the responsibility of the
17 occurrence, you're again on that section on Page 84,
18 you're again deferring to BEAR on that?

19 A. Correct.

20 MR. AYALA: Form.

21 BY MR. LaFLAMME:

22 Q. Did you do any determination into what type of
23 testing is required to obtain a UL certification for the
24 hoverboard?

25 A. I did not.

1 Q. Any determination into determining -- or any
2 assessment into determining what type of testing is
3 required for the lithium-ion battery cells to be UL
4 certified?

5 A. I did not.

6 Q. On Page 86 for -- you have a statement that --

7 A. And just so that -- they're not really
8 certified. They're listed.

9 Q. Okay.

10 A. I always use the term "listed" because I think
11 that that's what the UL goes by.

12 Q. I think that's probably the accurate term that
13 UL uses as well.

14 A. Okay.

15 Q. I'll clean that up then.

16 You didn't do any assessment as to what testing
17 is required for a hoverboard to be listed under the
18 UL 2272 standard?

19 A. That's correct. Thank you for that.

20 Q. You did not do any assessment to determine what
21 testing is required for the battery cells to be listed
22 under the applicable UL standard?

23 A. I did not.

24 Q. Okay. On Page 86 of your report, you indicate
25 that it's submitted based on the status of the

1 investigation as of the date of its issuance?

2 A. Correct.

3 Q. Safe to say you have not done any further work
4 that would change any of your report since July 15th of
5 2024?

6 A. I have not.

7 Q. Do you have plans to do any further work in
8 this case?

9 A. I don't have any plans to do any additional
10 work.

11 As I sit here today, however, I will do
12 whatever my client asks me to, and if that impacts my
13 opinions in any way, I will notify him to notify you.

14 Q. Okay. Why don't we go back to your photographs
15 on Exhibit 97.

16 All right. So you walked me through the manner
17 in which you believe the fire propagated in Bedroom 4.

18 A. Yes. So we're up to kind of the point where it
19 leaves Bedroom 4.

20 Q. Okay. And it leaves Bedroom 4 in two avenues
21 under your theory; correct?

22 A. Eventually it leaves -- well, you have the
23 window and the door, they're the first way it leaves,
24 but it also burns through several walls.

25 So I'm not sure how to answer your question. I

1 think you were talking about the two ventilation
2 openings.

3 Q. Correct.

4 A. There are two ventilation openings where it
5 first would have progressed.

6 Q. And it progress through the ventilation
7 openings before it would burn through any of the party
8 walls; correct?

9 A. Yes.

10 Q. All right. So once the fire progresses outside
11 one of the ventilation openings, which way do you want
12 to go? Out the window or out the door first?

13 A. I think I did it as out the door, and then we
14 kind of follow the photographs in order. So if we go to
15 Photograph 115 --

16 Q. Okay.

17 A. -- this is the photograph of the kitchen
18 counter and we can see the distribution of the fire
19 damage as to the -- keep myself honest here -- as to the
20 south end of that kitchen counter.

21 So it just tells us that the fire is, from the
22 damage to the kitchen counter, is coming into the
23 kitchen from south to north.

24 Q. So from the hallway?

25 A. From the hallway.

1 Okay. Then the next photograph, you tell me if
2 you want me to stop because these are pretty intuitive.

3 Q. Yeah.

4 A. Photograph 113, we can look at the damage to
5 the upper cabinetry. We can look to the damage on the
6 countertop and the degree of consumption and
7 destruction.

8 And then at the very bottom, I'm looking at the
9 melting and consumption of the plastic control
10 components to the dishwasher, and they all tell us the
11 same thing, they parallel what we see on the center
12 island. The fire is moving from the hallway into the
13 kitchen and moving from south to north.

14 Photograph 114 is a little bit further into the
15 kitchen and we can see plume patterns across the
16 microwave door. We can see the damage to the upper
17 cabinetry, and we can see the damage to some of the
18 countertop islands. It's just showing us that that
19 progression through the kitchen continued from south to
20 north.

21 Q. And were the items that are on the counter, are
22 those fall down from above or were they on the counter?

23 A. Some of it looks like it's fall down or
24 post-incident because they don't -- but when you look at
25 the ones that don't have any sooting, but a lot of the

1 stuff I saw on the counter, you could tell it was in
2 place at the time of the -- so there was a lot of
3 accumulation.

4 Photograph 101, this is the interior east wall
5 of the kitchen. So you can see in the foreground, you
6 can see the center island, and the fire patterns on that
7 interior surface of the wall and the degree of
8 consumption, the fire patterns show that the plume is
9 moving from south to north across that wall, that's that
10 angular line of demarcation on the wall.

11 And then when I looked at the damage near the
12 floor, you could see that as you got further to the
13 north in the kitchen, in that area the damage got less
14 and less until we got to the point that there really
15 wasn't any fire damage at the floor level.

16 So again, all the patterns in the kitchen show
17 it's coming in from the hallway. We also talked earlier
18 it came through the wall from the Bedroom 4 closet and
19 then moved from south to north.

20 Q. So when we're looking at Photograph 101 just so
21 we can orient it ourselves, this door is the man door to
22 the garage?

23 A. Correct. Photograph 104 we looked at earlier.

24 So we looked at the -- we looked at this to
25 talk about the fire was coming through this wall from

1 Bedroom 4 into the kitchen, but there is also a fire
2 plume pattern on that wall that shows that the fire
3 moved from the hallway opening across that south wall
4 from west to east.

5 Q. Go back to that one again. So you're saying
6 that this wall was attacked on both sides; correct?

7 A. Yes. Yes.

8 Q. Okay.

9 A. Photograph 120, the next photograph takes us
10 into the living room, and we're seeing two walls of the
11 living room, and the patterns on both walls, there are
12 multiple lines of demarcation.

13 I put two red arrows, but there's actually, as
14 the fire plume is developing, it develops -- it leaves
15 its witness mark and then gets bigger, it leaves another
16 witness mark.

17 All of the patterns on both of those walls were
18 consistent that it came into the room from the hallway
19 and it's moving across there.

20 Photograph 122 is a wider shot of the south
21 wall of the living room, and that is a -- there's a
22 series -- the damage to the couch shows that the fire is
23 attacking it from left to right in the photograph, or
24 east to west in the room, and then the damage and the
25 plume pattern on the wall behind the sofa gives us the

1 same indication.

2 The fire comes in from the hallway and moves
3 from east to west, or left to right in the photograph.

4 Q. Do you know where within the living room
5 Mrs. Wadsworth was sleeping that night?

6 A. Uhm, I do not. And after the fire, it was not
7 real clear exactly where she -- it wasn't visible to me
8 or obvious to me where she was sleeping.

9 Photograph 135 takes us back towards that
10 kitchen opening. So the photographer is kind of
11 standing in the opening to the living room, and now we
12 can see that we have patterns across the cabinetry to
13 the right or to the west -- to the west of the
14 refrigerator, and the damage shows the fire came into
15 that opening again and went into the kitchen.

16 Then when it impacted the west side of the
17 refrigerator, it started developing upwards back towards
18 that back wall. So everything is consistent in both
19 these rooms.

20 Q. When you say "the photographer," that was you;
21 correct?

22 A. Yes.

23 Q. Okay. And just for orientation --

24 A. I don't know why I always say it that way, but
25 that's the way I always say it.

1 Q. All right. I just wanted to make sure you
2 didn't have someone there that I'm not aware of.

3 A. It's me. No, no, it's me. I took all these
4 pictures.

5 Q. All right. Looking at this photograph, just
6 for orientation purposes, the left side is the kitchen,
7 the right side you can see into Bedroom 4?

8 A. Correct.

9 Q. All right.

10 A. Okay. Photograph 137, this is, I am standing
11 in that hallway, front hallway between the kitchen and
12 the living room, and what I'm taking -- what I'm trying
13 to photograph is are the patterns in the closet.

14 So it's kind of that closet that's off of
15 the -- you walk into off of the living room, and I'm
16 looking at the distribution of the charring, and it
17 shows me that the charring is close. There's greater
18 charring to the opening of the closet versus the back of
19 the closet.

20 Q. Is that this closet here (indicating)?

21 A. Yes.

22 Q. Okay. Meaning the closet that is just off the
23 living room?

24 A. Just off the living room and backs to Bathroom
25 No. 2 as labeled on Exhibit 100.

1 Q. Okay.

2 A. So the fire is just burning into that closet.

3 Photograph 138 is the -- a couple things on
4 here. This is the -- I need to get my orientation --
5 west wall of the hallway, and I am still standing near
6 the intersection of the living room and the kitchen and
7 the hallway.

8 And so what I'm looking at are two things on
9 here. You'll see that in the center of that wall, we
10 have a complete consumption of the vertical wooden wall
11 studs.

12 And then the two adjacent to it, we have very
13 heavy directional damage to them from left to right.
14 That's directly across from the doorway opening,
15 Bedroom 4 doorway opening. So as the fire comes and
16 vents out there, it's impacting that wall right there,
17 so we have greater damage.

18 As we look further down the wall, we have what
19 I call truncated cone patterns on the walling material
20 and the distribution of charring on the studs that are
21 also representing that fire plume presence, and it just
22 shows us that the fire is moving down towards the back
23 bedrooms once it's in the hallway.

24 Q. For orientation purposes, the Bedroom 4 is to
25 your left in this photo?

1 A. To the left.

2 Q. Okay. So this wall stud, which I think you
3 reference is on the opposite side of the hallway of
4 Bedroom 4?

5 A. Correct.

6 Q. Okay.

7 A. Photograph 140, I'm trying to focus your
8 attention on the opposite wall, the wall that is common
9 with Bedroom No. 4.

10 So it would be the east wall of the hallway,
11 and on that wall, we see similar damage like we saw on
12 the other side of the wall, from the bedroom side, and
13 we have this -- these truncated cone patterns and lines
14 of demarcation that show us that the fire is moving down
15 the hallway from north to south from the bedroom door
16 opening, which is located at the base of the arrow
17 there.

18 And then at the far end of the hall, we have
19 that "U" shape pattern again which is the third
20 dimension of the fire plume as it's going down the
21 hallway, and it just tells us the same thing, the fire
22 is coming down the hallway from the Bedroom 4 doorway
23 opening and moving towards the south end of the house.

24 Q. The fire damage that we see in 138 to the
25 studs, that's ventilation attributed?

1 A. 138, well, what's important is that where the
2 stud's missing and the heavy damage there, it's from the
3 fire venting out Bedroom No. 4 door and immediately
4 impacting those.

5 Q. The whole house fan is just above there as
6 well; correct?

7 A. Yes.

8 Q. So a path of ventilation for the fire?

9 A. The whole house fan would be a path for the
10 ventilation of the fire and/or the byproducts
11 combustion.

12 There's good evidence that a lot of smoke went
13 into the attic because -- I don't think I have them in
14 here, but I photographed all the vent, attic vent
15 openings and they're all heavily smoke damaged, but not
16 fire damage.

17 Q. So the consumption of the wall studs on the
18 opposite side of the bedroom floor hallway, that is a
19 ventilation pattern from the fire venting out the
20 doorway of Bedroom 4?

21 A. It's partially a ventilation pattern, but it's
22 also showing the movement of the fire, because now once
23 the bedroom window is gone, now that fire has fresh
24 oxygen and so it's kind of a combination of both. It's
25 kind of a combination of fire flow and ventilation.

1 Q. Okay.

2 A. Okay. Photograph 168 is --

3 Q. Mike, why don't we take a quick break here and
4 we'll come back to 168.

5 A. Okay.

6 Q. Joy wants a quick break.

7 (A recess was taken from 1:15 p.m.
8 to 1:21 p.m.)

9 BY MR. LaFLAMME:

10 Q. We were on Photograph 168 and you were working
11 to get your orientation --

12 A. I got it.

13 Q. -- on that photograph.

14 A. So Photograph 168 is the north short wall
15 between the hallway and Bathroom No. 2, and on the left
16 side of the picture we're looking into Bedroom No. 3.

17 Q. Okay. And that's Kamille's bedroom?

18 A. Yes.

19 Q. Okay.

20 A. So this little wall right here (indicating).
21 And there's a number of them, of truncated cone
22 patterns, and I've used one vector to show, it shows
23 that the fire is coming from the hallway into Bedroom
24 No. 3.

25 Q. Okay.

1 A. And then the next Photograph 174 is the bedroom
2 door to that same bedroom, Bedroom No. 3, and we're
3 seeing the same pattern across the top of the door that
4 the fire was coming from the hallway into Bedroom No. 3,
5 not vice versa.

6 And here your reference is that there's that
7 little closet area just to the left of the doorway
8 opening to Bedroom 3 in the diagram.

9 Q. Okay.

10 A. Okay. 173 is another view of that short
11 section of wall showing that the fire is moving into
12 Bedroom No. 3 from the hallway, but the angular natures
13 that come from the development of the fire plume.

14 Q. And Bedroom 3 again is Kamille's bedroom?

15 A. Yes.

16 Q. All right. So we're still in that same area.

17 A. Okay. So now Photograph 195, we're in the
18 hallway. We're looking directly towards Bathroom
19 No. 1, and I'm looking on the door frame and the little
20 kickout leading into Bedroom No. 2 and the angular
21 nature, that's from a developing fire plume and it shows
22 us that the fire is moving left to right in the
23 photograph or from the hallway into Bedroom No. 2.

24 Q. Okay. And Bedroom No. 2 is Weston's bedroom?

25 A. Correct.

1 Q. All right.

2 A. So the next Photograph 192, to the right is the
3 opening to Bedroom No. 2. I'm now looking at the damage
4 to the doorway for Bathroom No. 1 in the diagram marked
5 as 100, and the angular nature of the consumption of the
6 door and the distribution of the heat and subpar
7 particulate shows us that the fire here is moving into
8 the bathroom from the hallway and not vice versa.

9 And then also when we looked at the damage to
10 the entrance to Bedroom No. 1. We see again that the
11 fire is moving from the hallway into Bedroom No. 1.

12 Photograph 198 is a continuation of that
13 movement into Bedroom No. 1 on both the south wall and
14 the west wall. The fire has vented into that bedroom
15 and is moving down both those walls. So again, we're
16 just showing the fire is -- I'm showing the fire is
17 coming from the hallway into Bedroom No. 1.

18 Q. And in Photo 198, the breach that we have in
19 the ceiling, is that an overhaul effort by the fire
20 department?

21 A. Yes, most likely. I mean, there's no other
22 explanation for that localized damage. There is an
23 attic access in this bedroom, but it's in the closet.
24 It's not there.

25 Photograph 219 is we are inside the master

1 bedroom, and kind of your continuation clue is the crate
2 for the dogs.

3 So now I'm standing inside the bedroom. I'm
4 looking at the fire pattern on the opposite door frame
5 which again shows me this fire is coming from the
6 hallway into the bedroom.

7 There's a larger truncated plume pattern across
8 that wall over the front of the closet. It tells me the
9 exact same thing.

10 And then the angular nature of the truncated
11 cone patterns on the west wall of the bedroom just
12 inside the doorway opening show the same thing, all this
13 heat energy and smoke is coming from the hallway into
14 Bedroom No. 1.

15 And you can see at the top of the closet in
16 Photograph 219 that the fire has burned through the wall
17 there.

18 On the opposite side of this wall is Bedroom
19 No. 1, and we can see that the fire damage in Bedroom
20 No. 1 is burning into --

21 Q. Bedroom No. 4, you mean?

22 A. Bedroom No. 4, yes, is burning into Bedroom
23 No. 1 exactly the way I labeled Photograph 220. So it
24 burned through that closet wall.

25 Q. Okay.

1 A. Now we've gone through all the photos.

2 Q. Okay. So then the remainder of the photos from
3 143 on, those are all Bedroom 4 --

4 A. Correct.

5 Q. -- that we went through before?

6 A. I think we went through -- yes, we went all
7 through these before.

8 Q. Okay. Looking at Photo 7, which is the
9 exterior photo, you have the yellow lines, and is that
10 dimensionally correct for the size of the shed or is
11 that approximate?

12 A. I'm just marking where I see the lines of
13 demarcation. I haven't measured that distance to the
14 shed.

15 Q. Okay. Do you know what height the shed was?

16 A. The shed doesn't come up to the top of the
17 window.

18 Q. That doesn't mean -- the shed is below the
19 window; correct?

20 A. Below the window, yes.

21 Q. Do you know how far below the window?

22 A. The testimony is that it's just below, it's
23 below the window, but not by a lot. And I think we can
24 see the fire damage. So we're seeing that radiated
25 heat.

1 So I think dimensionally this is pretty close
2 to the shed, although this is a little wider because
3 we've got some heat movement away from the shed.

4 The size of the shed compared to the window in
5 the front of the house, if you look at some of the body
6 cam -- well, the squad car footage coming in, there is
7 one of the clips that you can see the fire coming out of
8 the window and then you can see the remains of the shed
9 burning down below, and it gives you a pretty good size
10 approximation.

11 Q. Okay. You recall from Mr. Pasborg's statements
12 after the fire that when he arrived on scene, there was
13 fire on the ground beneath the window and then there was
14 fire coming out of the window; correct?

15 A. Correct.

16 Q. The fire that was on the ground beneath the
17 window, you attribute that to the shed?

18 A. The shed and/or fall down.

19 Q. What is the fall down that would be on fire in
20 that location?

21 A. What got ignited by the fall down, or what's
22 the fall down comprised of?

23 Q. Correct. What's is the fall down comprised of?

24 A. So as the fire is venting out the window, it's
25 attacking the eaves and falling to the ground. So

1 you're taking, I guess you would call them, exterior
2 structural materials.

3 Q. Do you know whether the -- or strike that.

4 When you were at the site in May of 2022, were
5 you able to look at the shed damage in any respect?

6 A. Yes, I was able to identify the contents of the
7 shed.

8 Q. All right.

9 A. And it matched what Mr. Wadsworth had told me
10 in my interview with him.

11 Q. And you saw that there was still a remnant of
12 the shed; correct?

13 A. Yes.

14 Q. And you have seen pictures where at the
15 August inspection that shed is actually picked up, and
16 you're able to get some dimensions from at least the
17 burned or the melted portion of the shed in that regard;
18 correct?

19 A. Correct.

20 Q. The chair that we see in Photo 7, do you know
21 if that was in the shed or outside of the shed?

22 A. There's two chairs in the shed. One had the --
23 so I think inside.

24 Q. Okay. Do you know what else was inside the
25 shed?

1 A. Two chairs, a table with a couple of -- two
2 drawers, uhm, two chairs, a table in between. The space
3 heater, and the space heater would be the large
4 components.

5 Q. There was also a blanket in there; correct?

6 A. There os a blanket in there, some type of like
7 a quilt it was described.

8 Q. And there was a cigarette disposal bucket;
9 correct?

10 A. Cigarette disposal bucket, ashtrays, brass
11 shell casings, that those were still laying there, and
12 cigarette lighters and he described two ashtrays.

13 I'm not sure -- I don't recall, as I sit here
14 today, that I visualized two ashtrays in the debris, but
15 one of them might have been covered, but there's
16 certainly an ashtray that I observed, and cigarette
17 lighters, the metallic -- I can't remember what that
18 brand name was. It's the kind my dad always used.

19 Q. Bic?

20 A. Huh?

21 Q. The Bic lighters?

22 A. No, the square metal ones where you flip the
23 top off.

24 Q. Okay. As far as the ashtrays, you only recall
25 seeing one?

1 A. Two were reported. I didn't see it when I
2 looked at it here, but in the testimony they talk about
3 two of them as well.

4 Q. Have you gone through photographs to see if you
5 can identify two ashtrays?

6 A. I looked at the photographs from there and I
7 don't remember.

8 Q. Were you able to identify the cigarette
9 disposal bucket?

10 A. Yes.

11 Q. Okay.

12 A. Oh, let me go back to one of your earlier
13 questions. Are you talking about the wooden chair in
14 this picture?

15 Q. Correct.

16 A. No, that was not inside the shed.

17 Q. Okay.

18 A. I was looking at the chair that's visualized to
19 the left of the stump.

20 No, the wooden chair facing the -- when I took
21 the picture was not in the shed.

22 Q. Okay. I didn't think it was, but --

23 A. Okay.

24 Q. Yes, I thank you for that clarification.

25 So the wooden chair that we see in Photo 07 you

1 agree was not in the shed?

2 A. Not inside the shed.

3 Q. Okay.

4 A. I can only imagine the thought running through
5 your head when I gave that answer.

6 Q. Do you know what levels of CO start to
7 incapacitate a person?

8 A. So my training -- first of all, my training has
9 always been that there is -- they're different for
10 everybody.

11 I was generally taught that when you got above,
12 when you got above 10 percent, it's going to start to
13 have effect, and then everybody's different of where
14 you're going to reach incapacitation, and that outside
15 parameter has generally been taught in every course that
16 I've ever taken to be somewhere between 30 to 40
17 percent.

18 Q. Okay. And you understand it to be less for
19 children?

20 MR. AYALA: Form.

21 THE WITNESS: Yes, because it has a lot to do
22 with your lung size, your rate of respirations.

23 So carbon monoxide only comes into the body
24 through inhalation; so children tend to breathe faster
25 than adults, and so they take it in faster. So I agree

1 with that.

2 BY MR. LaFLAMME:

3 Q. So with respect to CO levels that would be
4 needed to incapacitate the Wadsworth children, Gunner
5 and Layne, in Bedroom 4, you agree those would be less
6 than an adult?

7 MR. AYALA: Form.

8 THE WITNESS: I think that that's a fair
9 general statement, but again, my training has always
10 indicated that everybody is different. And so those
11 general rules are, you're always cautioned not to accept
12 them as a general rule and live by them.

13 BY MR. LaFLAMME:

14 Q. As you sit here today, are you able to state
15 what range of CO level would incapacitate either Gunner
16 or Layne given their age and size?

17 A. I'm not.

18 Q. I know you said you haven't done any CO
19 analysis in this case; correct?

20 A. I have not.

21 Q. Do you know what temperature a lithium-ion
22 battery cell reaches when it fails through an internal
23 short circuit?

24 A. I don't, but it is results in visible flames
25 within the visual spectrum. And so that research has

1 shown that always to be, at a minimum, somewhere between
2 25- and 2700 degrees Farenheit, but I don't know what
3 the maximum theoretical burning temperature is.

4 Q. And a window can break just from heat
5 impingement as opposed to flame impingement; correct?

6 A. Correct. Thermal shock is what we usually call
7 it.

8 Q. So you don't need actual flame impingement on a
9 window to break it?

10 A. You do not.

11 Q. It could be broken by the temperature created
12 from a flame, and I think we referenced 250 degrees
13 Fahrenheit before which was roughly the range in which
14 you agree with?

15 A. Yeah. And the distinction we're making is that
16 it can be hot gases, which is really what a flame is,
17 but it doesn't have to be direct flame contact. You can
18 have hot gases that cause the same thermal shock.

19 Q. All right. I'll go through my notes.

20 I'm sure Mr. Ayala may have some questions for
21 you and then probably start to wrap this up, or we can
22 take a break if Rudy doesn't have any questions.

23 Do you have any questions?

24 MR. AYALA: Of course.

25 MR. LaFLAMME: I figured you would.

1 MR. AYALA: No, I thought you were going to
2 review and I would wait until you were done reviewing
3 before I begin my questions.

4 MR. LaFLAMME: Okay. We can take a quick
5 break.

6 MR. AYALA: Do you want to do that?

7 MR. LaFLAMME: Sure.

8 (A recess was taken from 1:38 p.m.
9 to 1:41 p.m.)

10 BY MR. LaFLAMME:

11 Q. All right. Mr. Schulz, with respect to any
12 FMEA analysis, Failure Modes and Effects Analysis, you
13 have not done any of that type of work for this case;
14 correct?

15 A. I have not.

16 MR. LaFLAMME: Okay. We'll mark this.

17 (The aforementioned document was
18 marked as Exhibit 105 for identification
19 and is attached hereto.)

20 BY MR. LaFLAMME:

21 Q. All right. Mr. Schulz, I'll hand you what has
22 been marked as 105, which is just a note from your file
23 entitled "BEAR Experts" and you have David Rondinone and
24 Derek King listed there; correct?

25 A. Correct. And then I have -- I attached to it

1 their curriculum vitae off their website for each.

2 Q. That was going to be my question, where did you
3 get these CVs?

4 A. They were on their website.

5 Q. Did you do any assessment of their CVs as to
6 whether they would be the appropriate experts for this
7 type of case?

8 A. Not at all.

9 Q. And Mr. Rondinone, he's listed as a mechanical
10 engineer; correct?

11 A. Correct.

12 Q. And you're aware that he is not named as an
13 expert in this case?

14 A. I've learned that today, yes.

15 MR. LaFLAMME: Okay. That's all I have. Thank
16 you.

17

18 EXAMINATION+

19 BY MR. AYALA:

20 Q. Mr. Schulz, are you good to continue?

21 A. I am.

22 Q. Okay. And bear with me. I might jump around a
23 little bit on my questions in response to opposing
24 counsel's questions.

25 Early on in your deposition you were asked

1 whether or not Mrs. Wadsworth's alcohol use factored
2 into your analysis and your opinions in any way, shape,
3 or form.

4 Do you remember some of those questions?

5 A. I do.

6 Q. Okay. You were also asked whether or not the
7 kids' statements as seen and heard by the body cam
8 footage was in any way considered by in rendering your
9 opinions.

10 Do you remember some of those questions?

11 A. I do.

12 Q. Okay. Having heard that body cam footage from
13 the children and knowing what you know about
14 Mrs. Wadsworth's alcohol use at least pursuant to
15 deposition testimony, does that -- do those two factors
16 in any way, shape, or form change your opinions after
17 your analysis of the physical evidence in this case?

18 A. No.

19 Q. And you were asked a lot of questions, in
20 particular about the children's statements to Detective
21 Sheaman, as well as those that were seen and heard on
22 the body cam footage.

23 From what you can gather, the body footage
24 statements, those children were in each other's
25 presence?

1 A. Yes.

2 Q. Those children, as you can hear in the
3 background, were sitting next to their mother in that
4 pickup truck?

5 A. That's my understanding, yes.

6 Q. That mother, that based on certainly the
7 deposition testimony of Mr. Pasborg, as well as the
8 children, the mother who was dragged out of the burning
9 home was revived and was severely burned, sitting next
10 to the children in the pickup truck; correct?

11 A. That's my understanding, yes.

12 Q. And by the way, the pickup truck that was still
13 outside, parked outside of this burning home; correct?

14 A. Correct.

15 Q. Okay. So when opposing counsel asked the
16 questions about the statements given and seen on the
17 body cam footage having occurred immediately after the
18 fire, the fire was still going on.

19 You are aware of that?

20 A. Yeah, I'm totally aware of that.

21 Q. Okay. So these minor children are witnessing
22 their mother burned, their little brother burned, and
23 they're still witnessing this fire going on.

24 Do you appreciate that?

25 A. I appreciate that, yes.

1 MR. LaFLAMME: Object to form.

2 BY MR. AYALA:

3 Q. Okay. And so let me ask you whether it was the
4 body cam statements that they made in each other's
5 presence, whether it was statements made to Detective
6 Sheaman, you had a further opportunity to read and
7 review their deposition testimony, did you not?

8 A. I did.

9 Q. Okay. And those were not given, that testimony
10 was not given with other children in the room; correct?

11 A. That's correct.

12 Q. Okay. And from your review of the deposition
13 testimony and even, in fact, from some of what you heard
14 in Detective Sheaman's interviews of the children, did
15 you learn that the children were sleeping, they were
16 sleeping and stated that the fire woke them up?

17 A. Correct.

18 MR. LaFLAMME: Object to form.

19 BY MR. AYALA:

20 Q. In other words, they were not awake at the time
21 this fire began?

22 A. It's my understanding they were not.

23 Q. Okay. In reading Kamille's deposition
24 testimony, did you read that she stated it was the fire
25 alarms that woke her up?

1 A. I think my recollection is that and the
2 screaming of her brothers.

3 Q. Okay. You've been doing this, meaning fire
4 analysis and investigation for how long, sir?

5 A. 43 years now.

6 Q. The fire alarm, the smoke alarm that exists
7 within a residence, how long does it take for those to
8 be activated in the presence of an active fire?

9 A. Very quickly. They're the cheapest life
10 insurance you can buy for your family.

11 Q. Okay. As Kamille is woken up, woken up by this
12 smoke alarm and the fire alarm that's going off, and she
13 even testified, if you remember, she thought for a while
14 it was a dream.

15 Do you remember reading that?

16 A. I do.

17 Q. Eventually, she hears her brother or brothers
18 screaming. Do you remember that?

19 A. I do.

20 Q. And she stated in deposition that as she made
21 her way out of her room, which was across the hall from
22 the boys' room, by the way?

23 A. Opposite side. Not across from, but opposite
24 side of the hall.

25 Q. As she made her way out and passed the boys'

1 room, do you remember reading Kamille's testimony that
2 she looked into the boys' room?

3 A. Yes.

4 Q. And when she looked into the boys' room, she
5 saw the fire within that bedroom?

6 A. Yes.

7 Q. And, in fact, in the deposition testimony she
8 stated that she could not see outside because of the bed
9 and the wall of that window being on fire.

10 Do you remember seeing that?

11 MR. LaFLAMME: Object to form.

12 THE WITNESS: I don't recall if she said it was
13 because it was on fire, but she talked about the bed and
14 the wall obstructing her view.

15 BY MR. AYALA:

16 Q. Okay.

17 A. But that's where she placed the fire at the
18 time she walked by the bedroom door.

19 Q. Sure. In any event, at the time that they
20 make, meaning the children, make their way outside of
21 the residence, do you recall Kamille testifying that she
22 saw the shed on fire?

23 MR. LaFLAMME: Object to form.

24 THE WITNESS: Yes, and then she makes another
25 observation when she gets outside.

1 BY MR. AYALA:

2 Q. And what was that other observation she made?

3 A. That the top of the shed was burning.

4 Q. Okay. Do you recall her testimony that she was
5 still able to make out the form or shape of the shed?

6 A. Correct.

7 Q. You've been doing this for all these years.

8 A plastic shed like this, would you expect it
9 to be still in its original shape and form of a shed if
10 it had been the origination of this fire?

11 MR. LaFLAMME: Object to form.

12 THE WITNESS: I would not expect it to be
13 completely consumed, but I would expect it to be much
14 more damaged than she refers to it.

15 And Layne actually gives a similar statement
16 that it's the top -- I think either Layne or Gunner that
17 the top of the shed was on fire.

18 BY MR. AYALA:

19 Q. Okay. You've been asked a lot of questions
20 about the fire originating in this shed, and you've been
21 asked questions about smoldering fire and whether or not
22 that could have been the cause of this fire based upon
23 either a cigarette not being properly put out or
24 otherwise.

25 Do you remember some of those questions?

1 A. I do.

2 Q. Okay. In your review, including your presence
3 upon that property for inspection, did you see any
4 evidence that conclusively established the fire
5 originating in that smoking shed?

6 A. Not at all.

7 Q. Okay. In fact, what you reviewed as part of
8 your analysis is you reviewed all of the signs and all
9 of the factors that you considered that were consistent
10 with a fire originating in Bedroom 4, the boys' room;
11 correct?

12 A. Correct, but as part of my investigative
13 process and the scientific method and considering
14 competing hypotheses, I had to consider and evaluate
15 both scenarios; that it started in the shed and moved
16 into the house or if it started in the house and moved
17 onto the bed, along with a couple of others, but those I
18 would admit are the two primaries which way it was
19 coming from.

20 Q. From your review and analysis, which includes
21 deposition testimony, by the way, any evidenced that
22 there was a cigarette that was improperly discarded
23 within that shed?

24 A. Based on the totality of evidence, there's no
25 way to reach that conclusion.

1 Q. Any evidence that at the time that this fire
2 began or originated, that it was due to a cigarette
3 being improperly discarded?

4 A. No evidence at all.

5 Q. Any evidence that you were able to observe and
6 analyze that would lead you to conclude that any
7 malfunction within that shed was the cause of the fire?

8 MR. LaFLAMME: Object to form.

9 THE WITNESS: No, because it's not the origin
10 of the fire. And the cause of every fire is necessary
11 to locate it within the area of origin.

12 BY MR. AYALA:

13 Q. And what you concluded based on everything
14 you've reviewed is that the origin of the fire was
15 within Bedroom 4 and specifically at the location of the
16 hoverboard as testified to by the children and as all
17 the evidence has, at the very least, concluded?

18 MR. LaFLAMME: Object to form.

19 THE WITNESS: And I'm defining the origin as
20 the same area where the hoverboard was found.

21 I'm not saying that I did an analysis and can
22 tell you that the fire -- I don't have any fire pattern
23 analysis saying that it came out of the hoverboard, just
24 that they occupied the same area.

25 ///

1 BY MR. AYALA:

2 Q. Yes, sir. And from the deposition testimony
3 you reviewed, you've seen all the children testify that
4 they would have placed that hoverboard at the location
5 where it was found within that bedroom?

6 A. That seemed to be their normal practice based
7 on their deposition testimony.

8 Q. You were asked questions about Detective
9 Sheaman and whether or not you had any criticisms of his
10 investigative process.

11 Do you remember some of those questions?

12 A. I do.

13 Q. Okay. And there were occasions where you
14 testified that there was perhaps some statements or
15 comments that you would not make to the homeowner as
16 part of your personal practice in investigating fires?

17 A. Correct. I wouldn't share my findings and
18 conclusions like he was doing.

19 Q. From everything that you've seen from Detective
20 Sheaman's fire investigation and analysis, did his
21 sharing of information with the Wadsworth family detract
22 from the conclusions he made as to the origin of the
23 hoverboard?

24 MR. LaFLAMME: Object to form --

25 THE WITNESS: I don't see that --

1 MR. LaFLAMME: -- calls for speculation.

2 THE WITNESS: I'm sorry.

3 MR. LaFLAMME: Go ahead.

4 THE WITNESS: I don't see that because he had
5 already reached those conclusions before he shared the
6 information.

7 BY MR. AYALA:

8 Q. And, in fact, the conclusions that he reached
9 as to the origin, those are consistent with what you
10 were able to find from reviewing the totality of the
11 evidence; correct?

12 A. We agree on the area of origin, yes.

13 Q. You discussed with opposing counsel the concept
14 of electrical arcing.

15 Do you remember some of that?

16 A. Yes.

17 Q. Despite the fact that you were unable to find
18 evidence of electrical arcing within Bedroom 4, does
19 that fact preclude Bedroom 4 and specifically the
20 hoverboard location being the origin of this fire?

21 A. I don't believe so.

22 Q. And why not?

23 A. Because the location of arcing is independent
24 in this case because no one is alleging that electrical
25 arcing within Bedroom 4 had anything to do with the

1 initiation of this fire, and so to me it's really not an
2 issue.

3 When you keep in mind that the presence of
4 arcing just means that that conductor or component or
5 device or whatever it was, it just means that it was
6 energized at the time damage occurred to it or something
7 caused there to be an alternative path of the
8 electricity such that it will result in electrical
9 arcing.

10 Q. Does the presence of electrical arcing, could
11 that lead to a circuit tripping?

12 A. It can, depending upon the -- depending upon
13 the amperage of the electrical arc.

14 Q. You testified earlier you didn't see any
15 circuits that were tripped when you presented to the
16 residence?

17 A. I saw none. Just the one that was clearly in
18 the off position.

19 Q. And so there were no circuits that were tripped
20 that would have related to anything that was plugged
21 into the shed either?

22 A. That's true.

23 Q. Okay. Would you expect with the electrical
24 arcing that was purportedly found outside of this shed,
25 would you expect there to have been a circuit that was

1 tripped relating to that arcing found?

2 MR. LaFLAMME: Object to the form.

3 THE WITNESS: That would be a reasonable
4 expectation.

5 However, to be fair, not every occurrence of
6 electrical arcing results in the tripping of a circuit
7 breaker because again, you have to have the event and
8 then the amperage has to be right and the distance from
9 the circuit breaker, the rating of the circuit breaker,
10 but the fact that no circuit breakers were tripped
11 should not lead you to believe that no electrical arcing
12 occurred on any of those circuits, I guess, is the way
13 to put it.

14 BY MR. AYALA:

15 Q. Uh-huh.

16 A. So there just aren't a lot of absolutes in fire
17 investigation on the national level.

18 Q. And the reason why you rely upon certainly the
19 patterns that you see in fire investigation is because
20 of that same fact, that there's not a lot of absolutes
21 from conclusions.

22 Even when you employ modeling, you look at the
23 hard physical evidence that really provides the best
24 indicator as to where a fire originated.

25 A. I'm always trying to compare it to everything,

1 to the actual physical evidence and our understanding of
2 fire science and fire dynamics, which in our country,
3 more so than any other country, we have invested a lot
4 of time and research in.

5 Q. You were asked questions about Mr. Birdsong and
6 whether or not you were familiar with his background,
7 his training, and it was indicated to you that he was an
8 IT specialist.

9 Do you remember some of those questions and
10 answers?

11 A. Well, he's a genius at those issues.

12 Q. And it was, at the very least, inferred to you
13 that he did not have, according to the listings on the
14 Apex website, and even I believe it was his LinkedIn,
15 that he did not have any indication of having fire
16 investigation background, training, or education.

17 Do you remember some of that?

18 A. I do. I know that he has because I've directed
19 him to courses and so forth, and I've -- he's talked to
20 me about what type of training he should do.

21 To be clear, Apex, his employer themselves,
22 primarily uses him the way that I do as a technician,
23 and I'm not expecting him to be the one that's going to
24 testify to origin and cause, but that doesn't take away
25 from his knowledge and his experience of operating at

1 fire scenes and searching fire scenes, and so forth.

2 So he's not this computer guy that came in off
3 the street and was thrown into a fire scene. He does a
4 lot more than -- he knows more about fire investigation
5 and fire dynamics and that than a lot of fire
6 investigators that I run across.

7 Q. And I just want to be clear, sir, and I want
8 the record to reflect, are you aware that the Apex
9 website where it lists Mr. Birdsong as a member of that
10 company, in fact, identifies him as the IT director and
11 fire investigator?

12 A. I understand that, yes.

13 Q. Okay. And that's certainly consistent with
14 your knowledge and appreciation of his background,
15 training, and experience?

16 A. Correct.

17 Q. Have you investigated other hoverboard fires in
18 your career?

19 A. I can't recall another one as I sit here.

20 Q. With regards to the method and manner in which
21 you investigate fire origin, whether it's a hoverboard
22 or any other type of product or device, does your
23 methodology follow the same or similar pattern?

24 A. Yes.

25 Q. So whether or not it was related to a

1 hoverboard, related to an appliance or otherwise, you
2 follow the same principled method in investigating
3 fires?

4 A. Correct. You don't ever worry about what the
5 suspected cause the fire is or product of the fire.

6 You first have to find the origin, and then you
7 would move into the analysis of potential sources of
8 ignition within that area of origin. So that's what I
9 did and then I stopped.

10 Q. Okay. You were asked questions about the
11 UL 2272 listing. Do you remember some of those?

12 A. I do. I don't think it was enumerated, but we
13 talked about UL listings, yes.

14 Q. And you also were asked, I guess, the reason
15 why you had certain documentation in your file relating
16 to a Jetson Rogue hoverboard recall.

17 Do you remember some of that?

18 A. I do.

19 Q. Did you have an appreciation that the Rogue
20 model that was recalled by Jetson was UL 2272 listed?

21 A. I didn't look up its listing, but I made the
22 deduction that it probably was.

23 Q. Okay. And so based upon, at the very least,
24 your understanding and background and experience,
25 UL 2272 does not certify a product as being precluded

1 from failure. Is that fair?

2 MR. LaFLAMME: Object to form.

3 THE WITNESS: Correct. So here's how I do UL
4 and always have throughout my career.

5 Having a UL listing allows you to compare one
6 product to another that they're both going to meet the
7 same requirements of UL. It does not mean that the
8 product is safe and cannot fail and cause a fire.

9 And my evidence of that is in 43 years of
10 investigating fires, I've only had one event where the
11 product that caused the fire was not UL listed;
12 otherwise, they've always been UL listed.

13 So my simplistic view of UL is UL listing makes
14 your product marketable and sellable.

15 BY MR. AYALA:

16 Q. That's certainly what your experience has been
17 in investigating all of the fires you have in your
18 career?

19 A. I do, yes.

20 Q. You were asked questions about Mr. King's
21 analysis and opinions and all of that.

22 You're not offering opinions today as to the
23 cause of the fire, only the origin; correct?

24 A. Correct.

25 Q. What you --

1 A. And the closest I got to the cause is I
2 identified three sources of ignition within that area of
3 origin that needed to be considered.

4 Q. Okay. And ultimately, your conclusion, more
5 likely than not, is that the origin occurred within
6 Bedroom 4 at the location where the hoverboard was
7 found?

8 A. Correct. The hoverboard was co-located within
9 the area of origin.

10 Q. By the way, is there anything from the evidence
11 that you reviewed and collected that led you to a
12 conclusion that the refrigerator on the other side of
13 that Bedroom 4 wall was in any way responsible for this
14 fire?

15 A. I saw no evidence or indications of that.
16 However, I put them on notice and we collected
17 it, and I directed them to be collected as evidence
18 because that's -- because it was within the area of
19 origin and needed to be reevaluated.

20 Q. Okay. You were asked questions about NFPA 921
21 and whether or not that is the standard or guidance that
22 is followed for purposes of fire analysis and
23 investigation.

24 Do you remember some of those questions?

25 A. Yes.

1 Q. You're familiar with that standard; correct?

2 A. Very familiar with it.

3 Q. Okay. How are you so familiar with it?

4 A. I was on the original committee when 921
5 started. So I was on the NFPA Technical Committee
6 before -- the day we decided and voted that we needed to
7 write a 921, and then I served on that committee I think
8 for probably 17 years overall.

9 Q. Okay. All right. And so as you go about
10 collecting the evidence and information and performing
11 your analysis for determining origin of the fire, you
12 certainly are mindful and taking into account NFPA 921
13 as you go about your duties in analysis; fair?

14 A. I have to. I can't claim ignorance of what's
15 in the document.

16 Q. And so you would have done that also in this
17 case?

18 A. I do it in every case. Even before 921 was
19 published, I started that practice even as we were
20 writing the document.

21 Q. You were asked questions about whether you
22 employed any fire modeling or performed any test burns.

23 Do you remember some of those questions?

24 A. I do.

25 Q. Okay. You did not do either; correct?

1 A. I did neither, no.

2 Q. Did you need to for purposes of the scope of
3 your analysis and ultimate conclusions?

4 A. It was my position that I was able to arrive at
5 my opinions to a reasonable degree of certainty within
6 the field of fire and explosion and investigation
7 analysis without doing those physical tests.

8 Q. You were asked questions about your experience
9 rendering expert witness testimony and opinions and
10 shown a list of your deposition and trial history.

11 Do you remember some of that?

12 A. Correct. And that list, I think, was from the
13 last four or five years.

14 Q. And you were asked questions in particular
15 about what cases you've either been stricken as an
16 expert or had some of your opinions stricken or limited.

17 Do you remember some of those questions?

18 A. I do.

19 Q. Have you ever had your opinions as to origin,
20 fire origin stricken?

21 A. Never.

22 Q. And I know you talked about one of the cases,
23 if I recall, you had a supplemental opinion that was
24 disallowed -- correct? -- because of the timing?

25 A. Correct.

1 Q. There was another opinion, at the very least,
2 partial of which was disallowed due to failing to
3 reproduce a certain test for examination?

4 A. That was the Garcia case. We only did the test
5 once, and the magistrate ruled that it would have been
6 acceptable had we repeated the test more than once.

7 Q. Okay. But you've never had any of your
8 opinions stricken or limited in any fashion as it
9 relates to fire origination analysis?

10 A. No. In fact, what was a little humorous is
11 when I'm told that in the Garcia ruling the judge
12 acknowledged my expertise in fire origin and cause
13 analysis.

14 Q. Okay. You were asked a lot of questions about
15 the battery cells of this hoverboard and how you knew
16 that some expelled, how many, things like that.

17 Do you remember some of those questions?

18 A. I do.

19 Q. For purposes of the scope of your opinions in
20 this case and your analysis, does it matter to you how
21 many cells were expelled during this fire?

22 A. No. I was just able to observe from the very
23 first, my very first inspection of the actual item that
24 more than one cell had -- and I'm using the word
25 "failed" just to mean that they had opened up, that the

1 tops were off.

2 I'm not trying to make commentary on why that
3 is, and so that included it as a potential source of
4 ignition --

5 Q. Okay.

6 A. -- besides the fact that it was located right
7 in the area of origin as were the other two items
8 identified.

9 Q. The children testified that they were sleeping,
10 and in one way or another, were awakened by the fire,
11 whether it was due to the fire alarms or the window or
12 heat, what have you.

13 Would that -- would the fact that they were
14 sleeping at the time of this fire began be at least one
15 reasonable explanation for why they may not have heard
16 hoverboard, I think it was described as a "bang" or
17 explosion?

18 MR. LaFLAMME: Object to form.

19 THE WITNESS: And I used the term "audible
20 report." It may be a reason they didn't hear the
21 audible report.

22 You know, and a good segue to that is I have
23 lots of fire -- I've investigated lots of fires over the
24 years where people say, "I don't know why I woke up."

25 And you ask them, "Did you hear the smoke

1 alarm?" And they say, "No, never heard it." And then
2 we test the smoke alarms and we know that they went off.

3 And so that's a good audible report. It's
4 intended to be very, very loud and they just don't
5 recall or appreciate what it is that alerted them that
6 something was different.

7 BY MR. AYALA:

8 Q. And that certainly gets into a little bit of
9 the psyche that may be beyond your level of expertise
10 relating to trauma and relating to events like a fire?

11 A. Correct. I don't begin to understand all that
12 trauma. I have seen people involved in fires, you know,
13 throughout my career and everything's different. It
14 affects everybody differently, and it affects how they
15 express their experience.

16 Q. In your years of experience, have you learned
17 about, either personally or through your review of
18 research or literature, have you learned about
19 lithium-ion batteries failing whether or not they are
20 plugged into a power source?

21 MR. LaFLAMME: Object to form.

22 THE WITNESS: I have. I took, I think, the
23 most recent training was maybe two years ago from the
24 International Association of Arson Investigators on
25 what's called their CFI trainer website.

1 And then anything else that I've ever read in
2 articles, there's a lot of attention to it right now
3 pretty much spurred on by New York's experience with
4 lithium-ion battery fires.

5 And they do not have -- this is how I -- this
6 is my takeaway I took from all of the training I've ever
7 attended or podcasts I've listened to.

8 They are more likely to fail when they're being
9 charged, but they don't have to be being charged in
10 order for them to fail, and that two of the common modes
11 are there's a defect in the battery, there's damage,
12 some type of damage to the battery, or they've been
13 previously overcharged.

14 BY MR. AYALA:

15 Q. By the way, if a device like a hoverboard is
16 not plugged into an electrical source at the time of
17 failure, would you expect to see electrical arcing?

18 MR. LaFLAMME: Object to form.

19 THE WITNESS: Not in the structure's electrical
20 distribution system because it's not attached to it.

21 BY MR. AYALA:

22 Q. You were asked questions and certainly you went
23 over portions of your report, but in particular, on
24 Page 84 of your report, which is titled "Responsibility
25 For the Occurrence of the Hostile Fire Incident," you

1 were asked whether or not you were deferring to BEAR
2 with regards to some of those items and conclusions
3 which I believe you stated that you were.

4 Do you remember that?

5 A. Yes.

6 Q. And I want to ask you in particular to a
7 portion of that section where you state there is --
8 "The plaintiffs had no control over the design and
9 control of the artifact Jetson hoverboard. In addition,
10 there is no evidence that the plaintiffs used the
11 artifact Jetson hoverboard for any purpose other than
12 what was reasonably intended. And lastly, there is no
13 evidence that the plaintiffs misused the artifact Jetson
14 hoverboard neither intentionally nor otherwise."

15 What I just read, is that, at the very least,
16 what you yourself have gathered from your review of all
17 of the evidence, including deposition testimony in this
18 case?

19 A. That's the totality of the evidence, yes.

20 Q. Okay. So that's at least a portion of that
21 responsibility for the occurrence of a hostile fire
22 incident that you did not defer to BEAR.

23 In fact, you gathered that information from the
24 evidence in the case?

25 A. Yeah. I'm just reporting the evidence as I

1 viewed it having drawn out from the totality of the
2 evidence and just restated it.

3 Q. You were asked about the bedroom window being
4 compromised and if a flame was required or if the heat
5 alone could cause its compromise.

6 Do you remember some of those questions?

7 A. I do.

8 Q. And I believe you stated that thermal -- was it
9 thermal shock by hot gases can cause the compromise?

10 A. Correct.

11 Q. Okay. Given the facts and circumstances as you
12 understand them in this case, in February in Wyoming,
13 winter, the cold temperatures that existed, would it be
14 a reasonable conclusion that the surrounding hot gases
15 would be higher inside if the origin was that bedroom
16 versus outside?

17 MR. LaFLAMME: Object to form.

18 THE WITNESS: I think it's a reasonable
19 deduction that the temperature inside the house was
20 warmer than outside.

21 BY MR. AYALA:

22 Q. And so it would not be surprising to you if
23 either flame or hot gases from within Bedroom 4 was the
24 cause of that bedroom window being compromised?

25 A. Correct. And we've kind of made the

1 distinction between flames and hot gases.

2 There really is no distinction other than
3 flames are luminescent hot gases that we can see within
4 the visual spectrum, but I understood what the defense
5 counsel -- how the distinction he was trying to make as
6 we talked about it.

7 Q. Okay. You were asked questions about CO levels
8 needed or necessary to incapacitate a person.

9 Do you remember some of those questions?

10 A. I do.

11 Q. Can we at least agree here, you're not a
12 medical doctor?

13 A. I am not.

14 Q. Any and all thoughts and opinions that you
15 might have with regards to CO intoxication that is
16 capable of incapacitating a person, that's just based on
17 things that you've seen and heard throughout your career
18 in investigating fires?

19 A. And it's based on training that every fire
20 investigator received and I received multiple times over
21 the years to be maybe kind of a field indicator of what
22 a generalized amount of carbon monoxide is required, and
23 so forth.

24 It allows you to make some, uhm -- it really
25 comes into play for me in my investigations when I see

1 the toxicology reports.

2 Q. A person's level of CO intoxication depends on
3 a multitude of factors. Would you agree?

4 A. Yes.

5 Q. The least of which is the age of the person.

6 There are other factors that play into to
7 determine whether or not a person is -- receives CO
8 exposure significant enough to incapacitate.

9 A. There's a whole list in all the training
10 manuals and all the training that I've undertaken.

11 The only constant is the only way your body
12 intakes carbon monoxide is through respiration, through
13 breathing.

14 Q. Was there any evidence that you reviewed either
15 through photographs, through your review of the
16 deposition testimony or your presence upon the premises
17 that would leave any doubt, in your mind, that the
18 origin of this fire was the hoverboard location in
19 Bedroom 4?

20 A. No. I'm expressing that opinion to a
21 reasonable degree of certainty within my chosen field of
22 fire and explosion investigation and analysis.

23 Q. Okay. And lastly, is there any piece of
24 evidence, of materials from this case that you have not
25 reviewed that you wish to review before these opinions

1 become final?

2 A. No.

3 MR. AYALA: Those are all my questions. Thank
4 you, sir.

5

6 FURTHER EXAMINATION+

7 BY MR. LaFLAMME:

8 Q. A couple quick followup here, Mr. Schulz.

9 With respect to the lithium-ion batteries,
10 you're aware that they can expel their contents, or I
11 think as you termed it, the top pop off, due to an
12 external fire attack; correct?

13 A. Yes, I agree with that.

14 Q. Meaning just because the top popped off or the
15 top came off of a lithium-ion battery and it expelled
16 its contents, that, in and of itself, is not indicative
17 of an internal failure with that battery cell?

18 A. No. I was just trying to say that when the top
19 does come off, there's an expelling of its contents, it
20 usually gets ignited, and so you have a source of heat
21 energy.

22 Q. Yeah. And there's really two ways that it can
23 expel its contents. One is from an internal failure in
24 that battery cell; correct?

25 A. Correct.

1 Q. And then the second is from an external fire
2 attack from another source; correct?

3 A. Correct, but I would add to that in the
4 training that I've had is physical damage which would be
5 an external influence on the battery.

6 Q. Okay. Fair enough. So there's three.

7 A. Okay.

8 Q. All right. So just to recap, the three are
9 internal issue with the battery cell itself; two, an
10 external fire attack from another source; and then
11 three, physical damage to the cell in one respect?

12 A. Correct.

13 Q. Okay. Do you know what the amperage was of the
14 circuit breaker that controlled the power to the smoking
15 shed?

16 A. To the what?

17 Q. The smoking shed.

18 A. I don't recall, as I sit here. I'd have to go
19 back and look at the photographs. I think most
20 circuits, to my recollection, were 15 or 20 amp.

21 Q. 15 amp would be a normal circuit breaker for a
22 house; correct?

23 A. A very common size. 15 and 20s are the very
24 common sizes.

25 Q. Okay. You don't know whether it was a 30 amp

1 breaker for the outside portion of the house; correct?

2 A. I don't.

3 Q. All right. If it's a 30 amp breaker and
4 there's an arc at the wiring, that would be less likely
5 to trip that breaker because of the higher amperage;
6 correct?

7 MR. AYALA: Form.

8 THE WITNESS: Exactly, which is -- yes.

9 BY MR. LaFLAMME:

10 Q. Okay.

11 A. That's why I said it depends on the amperage of
12 that electrical arc.

13 And so that's why -- well, when people ask me
14 is it safe to go by this bundle of four extension cords
15 for \$12 at the checkout line at your Kroger or whatever,
16 I go, "No. You've got to look at the size of the wire
17 because they will fail and your circuit breakers will
18 never see it happen."

19 Q. So the higher the amperage of a circuit
20 breaker, the less likely it is for that circuit breaker
21 to trip in an arc situation; correct?

22 MR. AYALA: Form.

23 THE WITNESS: Yes, in an arc situation that is
24 less than the rating of the circuit breaker.

25 ///

1 BY MR. LaFLAMME:

2 Q. Okay. You had discussed with Mr. Ayala some of
3 the deposition testimony from the Wadsworth children.

4 Do you agree that that deposition testimony was
5 given in May of this year; correct?

6 A. Yes.

7 Q. So more than two years after the fire; correct?

8 A. Correct.

9 Q. Okay. And do you agree that, as a general
10 statement, people's memories are freshest in the closest
11 in time to the event?

12 MR. AYALA: Form.

13 THE WITNESS: I always agree to that as a
14 general statement, yes.

15 BY MR. LaFLAMME:

16 Q. With respect to the disposal of smoking
17 material, you had indicated that there was no way to
18 reach that conclusion.

19 Do you recall that?

20 A. Correct. That's one of those fire causes that
21 even if that's what occurred, it's very hard to ever
22 prove or reach that conclusion without very credible
23 evidence.

24 Q. And what you are getting at there is that the
25 careless disposal of the smoking material will be

1 subsumed within the fire damage material; correct?

2 MR. AYALA: Form.

3 THE WITNESS: Generally, that's the biggest
4 problem, yes.

5 BY MR. LaFLAMME:

6 Q. Okay. So in this situation --

7 A. Either consumed or even recognized in the
8 processing of the fire scene.

9 Q. Okay. So in this situation, based on an
10 assumption that the fire started due to a careless use
11 of smoking material within the smoking shed, it is not
12 surprising to you that you would not be able to identify
13 the specific cigarette that was carelessly disposed of;
14 correct?

15 MR. AYALA: Form.

16 THE WITNESS: That wouldn't bother me, no.

17 MR. LaFLAMME: Okay. That's all the questions
18 I have, sir.

19 THE WITNESS: Thank you.

20

21 FURTHER EXAMINATION+

22 BY MR. AYALA:

23 Q. In other words, a smoking material that is
24 carelessly disposed of, in this case, based upon the
25 facts and circumstances of this case, in order to

1 conclude that that was the cause or the origin, rather,
2 of this fire, you'd have to speculate?

3 MR. LaFLAMME: Object to form.

4 THE WITNESS: Yeah, because in order to make it
5 conclusively, you would have to know -- you would have
6 to know four things about the smoking material.

7 You would have to know its temperature. You
8 would have to know how much heat energy it was giving
9 off. You would have to know the duration of that the
10 heat energy transfer.

11 You would have to know whether or not it had
12 its ability to transfer its heat energy to whatever
13 you're deciding the first fuel ignited is, and then
14 you'd have to know all about what the first fuel ignited
15 is and what its ignitability is from a particular
16 discarded smoking material.

17 BY MR. AYALA:

18 Q. You'd have to ignore the testimony that
19 Stephanie and Matthew used the ashtrays, one of which
20 was clay and the other of which was cast iron?

21 A. Correct, but it's that one that looked like a
22 little frying pan.

23 Q. All right. You'd have to ignore the testimony
24 or evidence that exists that they would have put out the
25 cigarette or the cigarettes before leaving the smoking

1 shed?

2 A. Yes.

3 Q. You'd have to ignore the physical evidence
4 indicating the origin inside of the home?

5 A. That's the biggest one for me. The origin is
6 not out in the shed, and so I can dismiss the careless
7 use of smoking materials.

8 I'm not -- I do not believe, based on
9 experience all these years, is when somebody says,
10 "Well, I always put my cigarette out and I know it was
11 out," I don't ever rely on that.

12 That may be what they believe that they did.
13 It may or may not be the truth.

14 Q. Which is why in doing what you do for all of
15 these years, you rely on the hard evidence, the physical
16 evidence that indicates the most likely origin?

17 A. Correct. And so in many cases where I have
18 believed it's careless use of smoking materials, I
19 always label those as undetermined.

20 Q. This is not one of those cases?

21 A. No.

22 Q. By the way, you were asked questions about you
23 not being present for certain subsequent inspections of
24 evidence and things of that nature.

25 Did your absence from any other events in this

1 case in any way, shape, or form limit your ability to
2 reach the conclusions you have?

3 A. No. All those examinations were focusing on
4 the cause of the fire.

5 Q. And with regards to the question asked about
6 generally you have a better memory closer in time to the
7 event, obviously, you're not taking into account any
8 psychological factors relating to traumas and tragic
9 events?

10 A. No. And there's a whole bunch of -- I'll tell
11 you the thought that went through my mind when you asked
12 me that is one big factor is the interview, how is the
13 interview being conducted, what questions are being
14 asked, and so forth.

15 And so that's why I always agree that generally
16 it's closer in time, but if it's closer in time and it's
17 not a good interview conducted the way an interview
18 should be conducted and with your subject not being
19 under any distress or any medical or psychological
20 conflicts, it might not be better. Generally, yes.

21 MR. AYALA: Those are all my questions, sir.
22 Thank you.

23

24 ///

25 ///

1 FURTHER EXAMINATION+

2 BY MR. LaFLAMME:

3 Q. Sir, you had indicated that all the
4 examinations that you did not attend were focusing on
5 the cause of the fire?

6 A. That's my review -- based on my review of what
7 they photographed and what the protocols were.

8 Q. Wasn't the August 2022 inspection focused on
9 the origin as well?

10 A. I was thinking of laboratory inspections.

11 Q. Okay.

12 A. You are correct. The August one was definitely
13 what was done on origin.

14 Q. Okay. Just making sure --

15 A. No, no. That's a good catch. Thank you.

16 Q. It sounds like you've attended a number of
17 seminars or training sessions that discuss lithium-ion
18 battery failures?

19 A. You know, they've all been on-line training
20 actually.

21 Q. Okay. Have you ever experienced any on-line
22 training that has discussed the failure of two separate
23 lithium-ion batteries from an internal short circuit at
24 near the site simultaneous times?

25 MR. AYALA: Form.

1 THE WITNESS: As I sit here, I don't recall
2 anybody presenting that type of hypothesis.

3 BY MR. LaFLAMME:

4 Q. And you've never heard of that type of failure
5 situation in all your years of fire investigation;
6 correct?

7 A. I have not.

8 MR. LaFLAMME: Okay. That's all the questions
9 I have.

10

11 FURTHER EXAMINATION+

12 BY MR. AYALA:

13 Q. And just to be clear, your not being present at
14 the August inspection even relating to origin, does that
15 in any way, shape, or form prevent you from reaching the
16 conclusions that you have?

17 A. No.

18 MR. AYALA: Thank you, sir.

19 MR. LaFLAMME: I don't have any more.

20 MR. AYALA: He'll read, I'm sure. We'll order.
21 We'll take an E-tran, whatever.

22 (Proceedings concluded at 2:30 p.m.)

23 * * *

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DECLARATION

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I hereby declare I am the deponent in the within matter; that I have read the foregoing deposition and know the contents thereof, and I declare that the same is true of my knowledge except as to the matters which are therein stated upon my information or belief, and as to those matters, I believe it to be true.

I declare under the penalties of perjury of the State of California that the foregoing is true and correct.

Executed this _____ day of _____, 2024, at _____, California.

MICHAEL J. SCHULZ

REPORTER'S CERTIFICATE

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I, Joy E. Shure, a Certified Shorthand Reporter, holding a valid and current license issued by the State of California, CSR No. 3659, do hereby certify:

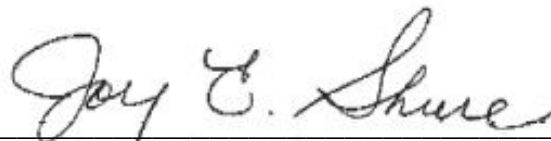
That said proceedings were taken down by me in shorthand at the time and place therein set forth and thereafter transcribed into typewriting under my direction and supervision.

I further certify that I am neither counsel for nor related to any party to said action nor in anywise interested in the outcome thereof.

Before completion of the deposition, review of the transcript [X]was []was not requested.

The dismantling, unsealing, or unbinding of the original transcript will render the Reporter's certificate null and void.

IN WITNESS WHEREOF, I have hereunto subscribed my name on this 25th day of September, 2024.

A handwritten signature in cursive script that reads "Joy E. Shure". The signature is written in dark ink and is positioned above a horizontal line.

Joy E. Shure, CSR No. 3659

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